

Hundred and sixty-seventh Session

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

SUMMARY

In pursuance of 28 C/Resolution 3.11, which invited “Member States and other States Parties to the 1970 UNESCO Convention to forward a further report on the action they have taken to implement the Convention for examination by the General Conference at its 32nd session”, this document provides the background for document 32 C/24, which is annexed hereto. This document is submitted to the Executive Board pursuant to 15 C/Resolution 12.2, by which the General Conference invited the Board to make appropriate arrangements for reports by Member States on the implementation of conventions and recommendations to be examined by a subsidiary organ of the Board and by the Board, prior to examination by the General Conference.

1. The Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 1970 was adopted by the General Conference on 14 November 1970 at its 16th session. As at 7 June 2003, 99 States were parties to the Convention.
2. At its 28th session, in November 1995, the General Conference of UNESCO, having examined the reports of States on their implementation of the Convention, adopted resolution 3.11 inviting “Member States and other States Parties to the 1970 UNESCO Convention to forward a further report on the action they have taken to implement the Convention for examination by the General Conference at its 32nd session”.

3. It will be recalled, in this connection, that both the Constitution of the Organization and the Rules of Procedure concerning Recommendations to Member States and International Conventions call for the submission of reports by Member States on the action they have taken in pursuance of conventions and recommendations adopted by the General Conference. Furthermore, Article 16 of the 1970 Convention stipulates that States Parties “shall in their periodic reports submitted to the General Conference ... give information on the legislative and administrative provisions which they have adopted and other action which they have taken for the application of [the] Convention, together with details of the experience acquired in this field”.

4. In conformity with 28 C/Resolution 3.11 adopted by the General Conference at its 28th session, the Assistant Director-General for Culture invited States Parties by letters dated 10 June 2002 (Ref. CLT/CH/02/7.2/001.45) to transmit their reports concerning the implementation of the Convention to the Organization, if possible by 15 October 2002. By letters dated 27 June 2002 (Ref. CLT/CH/02/7.2/001.253) the Assistant Director-General for Culture also invited Member States not party to the Convention to provide to the Organization information on developments towards ratification or, if any, the hesitations that may still exist with regard to ratification of the Convention, if possible by 15 October 2002. On 12 March 2003, a reminder letter (Ref. CLT/CH/02/7.2/001.1/137) was sent to Member States.

5. As at 16 June 2003, the Secretariat had received 19 replies from States party to the Convention and seven replies from States not yet party to the Convention.

6. This document is submitted to the Executive Board pursuant to 15 C/Resolution 12.2, by which the General Conference invited the Board to make appropriate arrangements for reports by Member States on the implementation of conventions and recommendations to be examined by a subsidiary organ of the Board and by the Board, prior to examination by the General Conference.

7. Document 32 C/24, representing a summary of the reports received, is annexed hereto for the Executive Board’s consideration. A draft decision will be prepared in light of the Board’s discussion on this item.



32 C/24
31 July 2003
Original: English

Item 8.2 of the provisional agenda

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

OUTLINE

Source: 28 C/Resolution 3.11 and Article 16 of the 1970 UNESCO Convention.

Background: At its 28th session, the General Conference, having examined the reports of States on their implementation of the 1970 UNESCO Convention, adopted 28 C/Resolution 3.11 recognizing the importance and value of the measures taken to implement this Convention. The resolution also invited “Member States and other States Parties to the 1970 UNESCO Convention to forward a further report on the action they have taken to implement the Convention for examination by the General Conference at its 32nd session”.

Purpose: This document transmits to the General Conference for its examination summaries of reports forwarded by Member States and other States Parties as of 30 May 2003 on: (a) the action taken by them to implement the above-mentioned Convention; or (b) if not yet State Party to the Convention, information on developments towards becoming party to the Convention or, if any, the hesitations that may still exist in this regard. Should additional information become available it will be distributed as an addendum to this document.

Decision required: paragraph 129.

PART I

INTRODUCTION

1. The Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 1970 was adopted by the General Conference on 14 November 1970 at its 16th session. This important instrument, the first multilateral treaty in this field, aims to protect cultural heritage by fostering close collaboration among States Parties against illicit transfer of ownership, export and import of cultural property. As at 7 June 2003, 99 States were Parties to the Convention. This number will increase to 100 on 26 June 2003 when the ratification by Denmark will become effective.
2. The UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (1995), is complementary to the UNESCO 1970 Convention. As at 7 June 2003, 18 States were parties to this Convention.
3. At its 28th session (November 1995), the General Conference, having examined the reports of States on their implementation of the Convention, adopted 28 C/Resolution 3.11 recognizing the importance and value of the measures taken to implement this Convention and recommending that intensified action against illicit traffic in cultural property be urgently taken at national and international levels. The resolution also invited “Member States and other States Parties to the 1970 UNESCO Convention to forward a further report on the action they have taken to implement the Convention for examination by the General Conference at its 32nd session”.
4. Such invitation may recall also the Constitution of the Organization and the Rules of Procedure concerning Recommendations to Member States and International Conventions, which call for the submission of reports by Member States on the action they have taken in pursuance of conventions and recommendations adopted by the General Conference. Furthermore, Article 16 of the 1970 Convention stipulates that States Parties “shall in their periodic reports submitted to the General Conference ... give information on the legislative and administrative provisions which they have adopted and other action which they have taken for the application of [the] Convention, together with details of the experience acquired in this field”.
5. In conformity with 28 C/Resolution 3.11 adopted by the General Conference at its 28th session, the Assistant Director-General for Culture invited:
 - (i) States Parties to the Convention by letters dated 10 June 2002 (Ref. CLT/CH/02/7.2/001.45) to transmit their reports concerning the implementation of the Convention to the Organization, if possible by 15 October 2002, and on 12 March 2003, a reminder letter (Ref. CLT/CH/02/7.2/001.1/137) was sent to Member States; and
 - (ii) Member States not party to the Convention by letters dated 27 June 2002 (Ref. CLT/CH/02/7.2/001.253), to provide information on developments towards ratification or, if any, the hesitations that may still exist with regard to ratification of the Convention, if possible by 15 October 2002.
6. As at 30 May 2003, the Secretariat had received: (i) 18 replies from the following States Parties to the Convention: Argentina, Azerbaijan, Colombia, Croatia, Cyprus, Czech Republic, Finland, Italy, Jordan, Lebanon, Mexico, Nigeria, Peru, Portugal, Saudi Arabia, Spain, Tunisia and Ukraine; and (ii) seven replies from States not yet party to the Convention: Austria, Belgium,

Denmark, Netherlands, Norway, Sweden and Switzerland. Of these seven States, Sweden has since become a State Party and Denmark will become a State Party as of 26 June 2003.

7. In pursuance of the above-mentioned 28 C/Resolution 3.11, the reports of States Parties on the action taken to implement the 1970 Convention are hereby submitted to the General Conference for its consideration. The General Conference shall, in accordance with the Rules of Procedure concerning Recommendations to Member States and International Conventions, embody its comments on the action taken by Member States in pursuance of a convention or recommendation in one or more general reports “which the Conference shall prepare at such times as it may deem appropriate”. According to the same Rules of Procedure, the reports of the General Conference on this question “shall be transmitted to Member States, to the United Nations, to National Commissions and to any other authorities specified by the General Conference”. In this respect, the United Nations General Assembly, in its resolution 56/97 (14 December 2001) invited Member States to consider adopting and implementing the Convention.

8. At its 165th session (October 2002), the Executive Board adopted 165 EX/Decision 6.2 which invites the Director-General “to organize on the sidelines of the next General Conference, a meeting of States Parties to the conventions on which reports are due in the near future (for example in 2003, the 1970 Convention ...)”. This meeting of States Parties to the 1970 Convention will take place at UNESCO Headquarters on 13 October 2003, in the course of the 32nd session of the General Conference.

PART II

Summaries of Reports Received from States on the Implementation of the 1970 Convention

9. The letters inviting States Parties to the Convention to submit reports on their implementation included suggested guidelines to facilitate preparation of the reports by referring specifically, where possible, to measures concerning:

- those taken to prevent the illicit transfer of ownership, such as the setting up of one or more national services for the protection of the cultural heritage (Art. 5), and the establishing and keeping up to date of a national inventory of protected cultural property whose export would constitute an appreciable impoverishment of the national cultural heritage (Art. 5(b));
- those taken to prevent illicit excavations, such as supervising archaeological excavations, ensuring the preservation ‘in situ’ of certain cultural property, and protecting certain areas reserved for future archaeological research (Art. 5(d));
- controls over the export of cultural property, such as introducing an appropriate certificate in which the exporting State would specify that the export of the cultural property in question is authorized (Art. 6(a));
- controls over the acquisition of cultural property, such as preventing museums and similar institutions from acquiring cultural property originating in another State Party which has been illegally exported after entry into force of the Convention (Art. 7(a));
- controls over the import of cultural property, such as prohibiting the import of inventoried cultural property stolen from a museum or a religious or secular public monument or similar institution in another State Party to the Convention, that was illicitly exported after the entry into force of the Convention (Art. 7(b)(i)); and more generally, arrangements

eventually made for an import ban on cultural property illegally exported from its country of origin; and

- educational means used to raise public awareness of the importance of the Convention, stress its values and goals, and ensure its promotion as a tool to protect cultural heritage (Art. 10).

10. Information provided in the reports submitted is summarized below using these categories where possible.

Argentina

11. General: Argentina became a State Party to the 1970 Convention in 1973 and to the UNIDROIT Convention in 2001. It has steadily increased its efforts nationally and internationally to fight against illicit trafficking, particularly in the past two years with the elaboration of new agreements, networks and commissions focusing specifically on this subject.

12. Preventing the illicit transfer of ownership: Pursuant to Law 25.197 relating to registration of cultural property, all jurisdictions are invited to develop an inventory to be submitted for inclusion in a national inventory. An important development is the Argentine Committee for the Fight Against Illicit Traffic of Cultural Property, established by decree under the domain of the Secretary of Culture. The Committee will integrate numerous related national organs and institutions to fulfil its mandate, which includes: developing mechanisms to prevent and fight against illicit trafficking; promoting public information campaigns to raise awareness of the problem; elaborating a “Red List” for Argentina’s cultural property at risk following the ICOM model, to be ultimately included in the Red List of Latin American Cultural Objects at Risk; ensuring that databases of cultural property are maintained and updated; providing specialized training in prevention and fighting against illicit trafficking to public and private agencies; and working together with all national and international, governmental and non-governmental entities in this fight.

13. Preventing illicit excavations: In each of the provinces, a System of Protection of Archaeological Sites is being implemented that is generated in the work plans approved for each municipality by the national government.

14. Export controls: By law any request to export cultural property must be presented to the Secretary of Culture and, after examination, to customs with an export certificate. Export of cultural property without this certificate is an illegal act.

15. Acquisition controls: In 2002, legislation was enacted relating to the admission of cultural property to museums dependent on the Secretary of Culture. The legislation requires that documentation be furnished establishing that the cultural property was not illicitly trafficked.

16. Import controls: Laws are in effect to regulate the temporary or definitive importation of cultural property.

17. Other measures related to the Convention: The government is effectively engaging all the categories of the National Police Forces (air, sea, border) to strengthen controls of the national borders and is sharing information with and between other relevant partners to make a wide effort to combat illicit trafficking. An agreement to exchange information between the Secretary of Culture, the Federal Police (INTERPOL Department) and ICOM was signed in 2000. Per this agreement, the INTERPOL CRIGEN/ART forms are provided to museums, national salons and galleries to identify objects and the information will be entered into an automatic search database. An INTERPOL Argentina web page will also be established to protect objects considered cultural

heritage of Argentina. An additional agreement between the Secretary of Culture and the National Aeronautic Police was signed in July 2002 with the aim of formally elaborating joint actions to protect Argentina's cultural heritage.

18. A bilateral agreement between Mexico and Argentina for the protection, conservation, recuperation and restitution of stolen or illicitly exported or transferred archaeological, artistic and historic cultural property is being considered, in conformity with the principles and terms of the UNESCO conventions protecting cultural heritage.

Azerbaijan

19. General: Having become a State Party to the 1970 Convention in 1999, Azerbaijan has a strong interest in protecting its cultural property and attempting to retrieve objects that have been removed. The Parliament has adopted specific laws on "Culture", "Protection of Historical and Cultural Monuments", "Museums" and "Archives" among others. Additionally, the "Division of Immovable Historical and Cultural Monuments on the Territory of the Republic of Azerbaijan, taken under the State's Protection, According to the Level of its Value" was approved by the Cabinet of Ministers in 2001. Much of the report discusses issues between Azerbaijan and Armenia relating to the 1954 Hague Convention and its two Protocols.

20. Preventing the illicit transfer of ownership: Complementary to the national legislation adopted to protect cultural heritage, the Ministry of Culture established the National Advisory Commission to implement the 1970 Convention and the related national legislation. Included in this Commission are representatives of the Ministry of Culture, the Academy of Sciences, the State Customs Committee, the Border Services, the National Central Bureau of INTERPOL, and museum, library and archives specialists. Additionally, the Azerbaijan National Committee of the International Council of Museums was formed in 1992. Pursuant to the law on "Culture", and its implementation Order, objects belonging to museum collections are registered in a *list of protected property*.

21. Preventing illicit excavations: The law requires that a special license be granted by the State for all archaeological excavations. The license itself has special provisions that must be respected when performing excavations.

22. Export controls: In accordance with the law on "Culture", the export of cultural property is subject to the control of the Ministry of Culture, which issues a certificate granted by the Commission of Experts within the Ministry.

23. Other measures: Azerbaijan cooperates with a number of international organizations that operate in the protection and restoration of cultural property, including TURKSOY, a non-political organization working in the fields of culture and art characteristic of Turkish-speaking nations.

24. In September 2001, the "National Workshop on UNESCO Legislative Acts for Protection of Cultural Heritage" was organized in Baku by the Ministry of Culture, the National Commission for UNESCO, and ICOM Azerbaijan, and the results of the seminar and a collection of legislative acts on the protection of cultural heritage were published in the Azerbaijan language.

Colombia

25. General: Colombia became a State Party to the 1970 Convention in 1988. It has extensive national legislation, projects and bilateral agreements relating to the protection of movable cultural heritage and is an active player in promoting regional cooperation for the prevention of illicit trafficking of cultural property. It has established strong national cooperation programmes intended to coordinate efforts of public and private sectors.

26. Preventing illicit transfer of ownership: Bilateral agreements concerning cultural protective measures have been signed between Colombia and Ecuador, Lithuania and the Russian Federation, and are foreseen with Bolivia, Peru and the United States. Furthermore, in 2002, the government established a “Cooperation Programme Against Illicit Trafficking of Cultural Property in Colombia”. The four main areas of this national project are: promoting inventories and a registry of movable cultural property; educating and training the various sectors of the public; legislation; and international cooperation. As a feature of the programme, a “National Campaign Against Illicit Trafficking of Cultural Property” is under way, with the immediate objectives of increasing public awareness of the consequences of the loss of Colombia’s cultural heritage, building up the capacities of the government and private sector partners to fight against illicit trafficking, and better coordinating efforts in this endeavour.
27. Preventing illicit excavations: Special protection is given to archaeological sites.
28. Export controls: In 1997 a law was adopted to prohibit the exportation of cultural property and to establish an obligatory Registry. In 1999 a decree was approved for new customs legislation that established that objects forming part of the national cultural heritage can only be temporarily exported if done in conformity with the provisions of the 1997 law, specifically for a period not to exceed three years and pending a bank guarantee assuring the re-importation of the object in the same condition.
29. Other measures: The “Third Regional Workshop Against Illicit Trafficking of Cultural Property” was organized in Bogotá in April 2002 by the Ministry of Culture and ICOM. A diverse group of participants, including UNESCO, INTERPOL, museum, customs, police, and archaeology representatives from the region produced and adopted “The Bogotá Declaration” setting forth recommendations to better prevent and fight against illicit trafficking of cultural property and further elaborate the Red List of Latin American Cultural Objects at Risk.

Croatia

30. General: Croatia deposited its notification of succession to the UNESCO 1970 Convention in 1992 and ratified the UNIDROIT 1995 Convention in 2000. Croatia has a national Department for the Protection of Cultural Heritage within the Ministry of Culture.
31. Preventing illicit transfer of ownership: The Law on the Protection and Preservation of Cultural Property (1999) restricts trade in cultural property and gives pre-emptive rights thereon to cities, counties and the State to control the transfer of ownership. Only licensed individuals or entities may trade in cultural property and they must abide by specific laws and restrictions. Certain customs regulations and provisions of the Penal Code protect cultural property against criminal acts, for which monetary fines or jail sentences are applicable.
32. The Registry of Cultural Property was established after World War II and was re-established in 1999 as the national inventory of protected cultural property. Within the Registry is a specific List of Cultural Property of National Importance. The Administration for Cultural Property, in cooperation with other relevant services and institutions, organizes activities including: the documenting and registering of collections, particularly those in places of worship; upgrading of security systems in museums and sacral buildings; establishing a database for stolen works of art and conducting international searches for stolen art in cooperation with the Ministries of the Interior and Culture and INTERPOL; and advancing international cooperation to combat illicit trafficking of cultural property.

33. Preventing illicit excavations: Archaeological excavations may only be conducted with a permit issued by the Administration Office for the Protection of Cultural Heritage and under their supervision. Preservation of cultural property *in situ* is ensured, particularly for underwater cultural heritage. Specific permits from the Administration Office are also mandatory for the underwater, but only in controlled zones for the study of wrecks.

34. Export controls: The specific law concerning the export of cultural objects is in accordance with European Union law. Cultural objects and objects under pre-emptive protection may not be exported except for temporary exhibition, expert opinion, or preservation work and then only with the formal approval of the competent body in the Ministry of Culture. This same body is required to confirm that the exported object is returned to Croatia within the requisite time frame.

35. Controls over acquisition: The legal controls over transactions or trade in cultural property include obligatory entries into the Register of Cultural Property and the licensing of dealers. The origin of the title of ownership must be clarified before a cultural object may be acquired. In this way museums and similar institutions are prevented from acquiring cultural property originating in another State Party that has been illegally exported after entry into force of the Convention.

36. Import controls: By law, cultural objects may be imported only if they have the approval of the State from which they are being imported. The importer is required to report the importation of the object to the appropriate authorities. Cooperation is undertaken with the relevant authorities of the State from which the object is being imported to conduct controls.

37. Other measures: Educational measures to raise public awareness include meetings organized by the Croatian Council for the Protection of Cultural Property. The importance of the 1970 Convention and the need to protect cultural objects are emphasized. Training for museum employees, conservators and restoration experts is also provided. The media, including the website of the Ministry of Interior Affairs, is frequently utilized to inform the public of these issues generally and of stolen objects in particular.

Cyprus

38. General: Cyprus became a State Party to the 1970 Convention in 1980.

39. Preventing illicit transfer of ownership: By law, private collections must be declared to the Director of the Department of Antiquities and thereafter, archaeologists are contracted by the government to catalogue these collections and enter the data into a national inventory. A request was submitted in 1997 by Cyprus to the United States for United States Import Restrictions in order to protect specified Cyprus Cultural Property, illegally acquired, from entering the United States. A bilateral agreement thereon between Cyprus and the United States was signed in two phases in 2000 and 2002. A network of professionals from various fields involved in cultural heritage protection was established to work specifically towards the implementation of the 1970 Convention. It includes representatives of the police and customs departments.

40. Preventing illicit excavations: Excavation of sites designated for future development is under the control of government offices and are monitored.

41. Export controls: No antiquity may be exported from Cyprus unless so authorized for a specific purpose, such as temporary exhibition in museums or other institutions, long-term loan or study and scientific analysis. Private collections may not be exported.

42. Other measures: Searches for cultural objects that are known to be stolen are publicized on the Internet. Exhibitions are organized to raise the public's awareness of the problem of illicit trafficking of cultural property.

Czech Republic

43. General: The Czech Republic deposited its notification of succession to the UNESCO 1970 Convention in 1993. Pursuant to various laws, a distinction is made between objects of cultural value, cultural monuments, museum collections, archives, and plastic and arts. Each of these categories has a legal definition as well as particular protective regulations and restrictions.

44. Preventing illicit transfer of ownership: Movable and non-movable cultural objects are inscribed on a central List of Cultural Monuments. The List is maintained by a specific national authority based within the Ministry of Culture. A Central Registry of museum collections is also maintained by the Ministry of Culture. A State-integrated system of protection for movable cultural heritage includes: improving security systems (mechanical and staff) for buildings housing cultural property; equipping documentation and conservation centres for cultural property, particularly those belonging to the Church; and purchasing privately owned objects so as to make them State property.

45. Preventing illicit excavations: Objects in the cultural monuments category that are excavated on Czech territory belong to the State by law and their sale or export is illegal unless the State authorizes it. Excavations are conducted under the direction of the Institute of Archaeology, within the Academy of Sciences. Unauthorized excavations are punishable. The Ministry of Culture may authorize or deny certain other excavations not performed by the Institute. Archaeological sites and finds are examined by experts, and must be protected against damage, destruction or theft. One aspect of the national strategy to protect culture is the establishment of a specific list of archaeological sites so as to broaden application of the laws protecting and regulating these sites.

46. Export controls: Such controls vary depending on the categories mentioned above. Objects of cultural value may be permanently exported with a certificate issued by the corresponding institution in the Ministry of Culture. If the Ministry deems that the object in question belongs to the category of cultural monuments, the export certificate may be refused. Objects considered cultural monuments or from museums or other collections may only be exported temporarily for exhibitions, restoration or research if so authorized by the Ministry of Culture through a decision that may also require the undertaking of certain protective measures, such as insuring the object. Archives may only be exported upon the consent of the Ministry of the Interior. Violation of the law results in sanctions. The Czech Republic intends to adapt its export laws to European Union law.

47. Controls over acquisition: Again, separate laws apply to the different categories of cultural property. Objects of cultural value require a certificate declaring that they are of this category before they may be sold. Acquisition of cultural monuments is regulated by the State and local governments. Owners of this category of cultural property must notify the State of any change in circumstance or ownership of these objects since they represent the most precious category of cultural heritage. The category of museum collections may not be transferred to another person until after the proposed transfer is recorded in the Central Registry. When the State is purchasing cultural property for museums, the provenance of the object is carefully examined. Museums and similar institutions also have specific instructions to follow when purchasing or transferring collection pieces.

48. Import controls: For the category of objects of cultural value, importation is authorized if the exporting State consents and reciprocity is guaranteed. The Czech Republic will conform to European Union laws on the restitution of illicitly exported cultural property when it joins the

European Union. Customs officials may seize suspect objects for examination of the circumstances. Confiscated objects become the property of the State.

49. Other measures: Public information campaigns highlighting the severity of illicit trafficking in cultural property are strongly supported by the mass media. Information dissemination, specialized training, and cooperation networks are systematic with the relevant partners in the government and professional and national associations.

Finland

50. General: Finland became a State Party to both the UNESCO 1970 Convention and the UNIDROIT Convention in 1999. The National Board of Antiquities, within the Ministry of Education, is responsible for all administration, research and management of the national collection of cultural history. The National Gallery is responsible for the national art collection and for the development of art museums in Finland.

51. Preventing illicit transfer of ownership: Since 1999 Finland has been building a network of authorities and making a preliminary inventory of cultural heritage under the leadership of the National Board of Antiquities. A proposal is being considered to place six cultural heritage sites on a special protection list.

52. Preventing illicit excavations: Pursuant to the Antiquities Act, archaeological excavations are subject to authorization by the National Board of Antiquities. Artefacts must first be offered to the Government, which usually accepts them. Violations of the Act are reported to the police. The rich underwater cultural heritage is more difficult to secure and the discovery of wrecks is not necessarily reported to the authorities. Efforts to protect the underwater cultural heritage are intensifying.

53. Export controls: The Act and Decree on the exportation of cultural objects of 1978, amended in 1999, delineate the issuing of licences for the export of certain cultural objects and the penalties for illegal export, and entrust supervision to the national customs service. Finland follows European Union law regulating the export of cultural objects. Punishment for illegal exportation of cultural objects or an attempt to do so is covered by the criminal code. A handbook on the export of cultural objects was published in 2001.

54. Controls over acquisition and import: Legislation was enacted in 1999 concerning these provisions of the 1970 Convention. Regarding the return of illegally exported cultural property to its country of origin, Finland adheres to the UNIDROIT 1995 Convention.

55. Other measures: The 1970 UNESCO Convention and the Code of Ethics for Professionals Dealing in Cultural Property adopted by UNESCO have been translated into Finnish and disseminated. The National Boards of Education and Antiquities and the Ministry of the Environment are developing an educational programme on cultural heritage.

Italy

56. General: Italy became a State Party to the 1970 Convention in 1979 and to the UNIDROIT Convention in 1999.

57. Preventing the illicit transfer of ownership: Several electronic links have been created to improve the exchange of information among relevant institutions and databases at national and regional levels, as well as at international level (with INTERPOL and OCBC (Office Central de Lutte Contre le Traffic des Biens Culturels), France). Furthermore and, *inter alia*, an international

symposium was held in 2001 in Rome, drawing attention to the increase in looting of cultural property and the importance of the ICOM code of ethics. Measures aimed at disseminating information on missing cultural objects have proven successful, enabling the recovery of objects.

58. Preventing illicit excavations: Several surveys and inquiries have been carried out to establish an archaeological map of land and underwater sites. Such a map is now available also in electronic format, and is updated with damages caused to sites by illicit excavations.

59. Export controls: Several meetings were held among all the authorities concerned, with a view to better controlling export of cultural property to European Union and non-European Union States. The need for coordination of all authorities concerned has been emphasized, both within Italy (customs and other) and with other relevant authorities abroad (European Union as well as third countries).

60. Other measures: Public-awareness campaigns are carried out regularly.

Jordan

61. General: Jordan has traditionally given great importance to cultural heritage and its intrinsic value. The Department of Antiquities was established by law in the beginning of the twentieth century, with a mandate to implement the cultural policy of the State, including the relevant conventions Jordan is party to. Jordan became a State Party to the 1970 Convention in 1974.

62. Preventing illicit transfer of ownership: By law, trade and illicit import and export of antiquities has been prohibited since 1976. Penalties and administrative sanctions are enforced against persons who violate the law. A national inventory of Jordanian cultural property exists and includes private collections. The Customs Service Department is particularly careful with regard to illicit trafficking and a special police unit exists thereon. Specific measures are undertaken in certain circumstances, as in the recent situation regarding Iraqi cultural property, whereby Jordanian police and customs departments were placed on special alert to watch for import, export and/or trafficking of Iraqi cultural property.

63. Export controls: Export restrictions exist for all categories of archaeological or ethnological objects. These restrictions are waived only for cultural property that is on loan for temporary exhibition so long as the Jordanian Prime Minister grants immunity from seizure.

64. Controls over acquisition: Museums are required to respect the terms of all relevant international conventions and abstain from purchasing or acquiring cultural objects that were pillaged, particularly if the pillaging occurred during occupation.

65. Import controls: The Department accepts and acts on requests from other States for import restrictions on archaeological or ethnological artefacts. Objects known or thought to be stolen are denied import and are generally confiscated. Persons found to have violated the law are penalized. The Department ensures that the competent services cooperate in facilitating the restitution of illicitly transported cultural property to its rightful owner. A person who intends to import specified foreign cultural property must comply with the requirements set by law before being granted import approval. Restricted objects may be imported if accompanied by the export permit issued by the country of origin. Import restrictions are waived for cultural property that is on loan for temporary exhibition so long as the Department grants immunity from seizure.

66. Other measures: Jordan actively participates in and promotes international and regional meetings, consultations and networks aimed at combating illicit trafficking in cultural property. The exchange of information, including relevant laws, is encouraged and valued as are global efforts

essential to curbing the problem of trafficking. Bilateral agreements are being concluded in the cultural framework.

Lebanon

67. General: Lebanon became a State Party to the 1970 Convention in 1992. The current law on antiquities has been found to be insufficient. The Ministry of Culture prepared a new, more protective draft law closer in line with the UNESCO conventions and it is pending before the Lebanese Parliament.

68. Preventing illicit transfer of ownership: The Arab Regional Workshop on the Illicit Traffic of Cultural Properties was organized by the UNESCO Beirut Office from 11 to 14 February 2002. Following one of the recommendations of the Beirut workshop, on 24 June 2002 a decree was issued for the establishment of the National Committee in charge of the Fight Against the Illicit Traffic of Heritage and other Cultural Properties. This Committee, chaired by the Minister of Culture, is responsible for monitoring and cooperating at the national and international level to curb illicit trafficking of antiquities and other cultural property. The Committee works directly with the UNESCO Beirut Office, and includes representatives from the Ministries of Culture, Justice, the Interior, Foreign Affairs, and Finance (the Directorate General of Customs). The inventory of museums and archaeological sites is still under way. Following a planned restructuring of the Ministry of Culture, an inventory of privately owned cultural property will begin.

69. Preventing illicit excavations: The Ministry of the Interior ensures the guarding of archaeological sites and persons engaging in illicit excavations are detained by security forces and are prosecuted in the national courts.

70. Export controls: As of 1978, Lebanon froze trade permits for antiquities and as of 1990 banned the exportation of antiquities.

71. Import controls: The Directorate General of Customs works closely with the Directorate General of Antiquities to reduce cross-border smuggling. Items seized are examined by archaeologists and, when necessary, are confiscated by the appropriate authorities.

72. Other measures: Public awareness of the importance of the national heritage is raised through media campaigns. During 2002, United Nations Year for Cultural Heritage, a symposium on the archaeological sites inscribed on the World Heritage List and the role of municipalities and private associations in the safeguarding of cultural heritage was organized by the Directorate General of Antiquities.

Mauritius

73. General: Mauritius became a State Party to the 1970 Convention in 1978.

74. Preventing the illicit transfer of ownership: The National Heritage Trust Fund Act and the National Monuments Act are going to be merged to provide more executive and enforcement powers. The National Heritage Trust Fund intends to establish a national inventory of tangible heritage sites and structures for their protection. The Mauritius Museums Council Act of 2000 provides for the establishment of a National Register to record all objects and specimens in the national collection.

75. Acquisition controls: The Mauritius Museums Council adopted a collection policy in 2002 regulating the acquisition of cultural property by the public museums and prohibiting the

acquisition of objects for which a valid legal title cannot be obtained. The acquisition of objects must conform to all existing binding international conventions and Mauritian laws.

Mexico

76. General: Mexico became a State Party to the 1970 Convention in 1973 and has specific federal legislation protecting archaeological, historical and artistic monuments. Mexico works closely with neighbouring States against illicit trafficking and is very active in its efforts to retrieve trafficked Mexican cultural heritage.

77. Preventing the illicit transfer of ownership: A system of catalogues and inventories is in place, enforced through various government offices. The catalogue of Movable Archaeological Property has, for example, over one million objects registered in its electronic database. Numerous inventory projects are under way or anticipated throughout the Mexican states and a National Programme of Protection of Movable Historic Property that would include participation of churches, State universities, educational institutions, federal and state government offices and civil society organizations to develop the national inventory is being proposed. This National Programme also anticipates training courses and information exchanges with all relevant partners.

78. Preventing illicit excavations: Archaeological and historic sites have special legal protection that requires close cooperation with the relevant national institutes. Excavations may only be conducted by the National Institute of Anthropology and History (NIAH) or by known scientific institutes that have received the authorization of NIAH to excavate. Pursuant to the Council of Archaeology, projects are authorized if they comply with published regulations. Such projects are regularly supervised and inspected.

79. Export controls: By federal law, exportation of cultural objects requires an authorization. Antiquities may only be exported temporarily for overseas exhibitions following approval by the Secretary of Public Education, the Secretary of External Relations and NIAH. Privately owned historic and other objects may be given temporary or definitive export permits depending on their situation.

80. Acquisition controls: NIAH regulations require full investigation, documentation and photographs of foreign cultural objects being considered for acquisition by Mexican museums or similar institutions, including checks in the INTERPOL database of stolen objects.

81. Import controls: A coordination system is in place under which state, federal and municipal administrative organs operate to investigate and locate Mexican or foreign cultural property. Customs and police officials, and where necessary federal investigative authorities and courts also cooperate. The Central Mexican INTERPOL Office also regularly provides its bulletin of stolen objects to NIAH, which in turn disseminates it to police and customs officials.

82. Other means: Mexico has entered into bilateral and multilateral agreements with a number of other States as part of its effort to combat illicit trafficking of cultural property. These include agreements or treaties with Belize, China, Colombia, El Salvador, Guatemala, the United States and Venezuela. Other such agreements are foreseen with Belgium, Greece, Peru and Switzerland. Public awareness campaigns disseminate information to sensitize the public and private sectors and the population at large about the need and ways to protect Mexican cultural property.

Nigeria

83. General: Nigeria became a State Party to the 1970 Convention in 1972. The National Commission for Museums and Monuments is the national institution for the protection of cultural heritage. It was established in 1979 as an offshoot of the Antiquities Ordinance of 1953.

84. Preventing illicit transfer of ownership: The Commission administers national museums, monuments and sites, and makes recommendations on the preservation of antiquities and monuments to the government. Inventories and documenting by typology and chronology are conducted and include precise details and photographs. Trade in antiquities is banned except if conducted by accredited agents, who have been licensed to trade in antiquities. The Departments of Police and Customs have the ability to search for and seize antiquities believed to be the subject of illegal trafficking. There is an ICOM red list of particular Nigerian cultural property that is banned from export or sale.

85. Preventing illicit excavations: The law establishes that no person shall carry out excavations or similar operations unless authorized by a permit issued by the Commission and with the consent of the State government. The Commission applies certain criteria to the applicant before issuing the permit and may, after issuing the permit, impose certain conditions as protective measures. The Commission may also suspend excavations it has issued a permit for. Violation of this law results in penal sanctions. Establishment of a special unit to monitor excavations is being considered.

86. Export controls: An export certificate is required for export of certain objects, usually antiquities, and is granted only for temporary exhibitions or research and with requisite insurance coverage. Objects being exported are examined and recorded to ensure, in part, return in the same condition. Cultural property other than antiquities is subject to fewer restrictions in that a certificate is given to the collector. Relevant information and records, including a photograph, are kept in the archives of the Commission.

87. Import controls: The import of stolen objects is not allowed.

88. Other measures: Security agents receive special training on the problem of illicit trafficking of cultural property and a public awareness campaign is organized every year on 18 May, for Museum Day. The Commission makes recommendations to the design and content of the syllabus of secondary schools to include museum studies. Public exhibitions are organized with museums that include emphasis on the importance of artefacts.

Portugal

89. General: Portugal became a State Party to the UNESCO 1970 Convention in 1985 and to the UNIDROIT Convention in 2002. The Portuguese Institute of Museums was established to help enforce the laws protecting cultural heritage.

90. Preventing illicit transfer of ownership: Owners and holders of cultural property are required to inform the Institute of any transfer of cultural property. A database of classified movable cultural objects and a useful Internet site are maintained by the Institute.

91. Export controls: Cultural property may not be exported without prior approval based on research as to the provenance of the object. A special procedure is to be followed for exports to European Union countries, while a different one addresses export to other countries. Replacing these procedures with a standard one for all exports is being considered. A more effective control system is needed since currently not everyone applies for the necessary authorization and cultural

objects still manage to be exported without it. Better coordination is sought with the relevant agencies and art dealers, and particularly the Customs Department, to improve the situation.

92. Controls over acquisition: The Institute requires that all measures be taken to ensure that acquisitions are strictly legal and that the provenance of acquired objects is clearly established.

93. Import controls: The Customs Department is required to check the provenance of imported objects and will consult with the Institute or museums under the direction of the Institute as needed.

Peru

94. General: Peru became a State Party to the UNESCO 1970 Convention in 1980 and to the UNIDROIT Convention in 1998.

95. Preventing the illicit transfer of ownership: The National Institute of Culture, through Technical Directives, maintains a Registry of Movable and Archaeological Cultural Property. An inter-institutional agreement for cooperation has also been established between the Pontifical Catholic University of Peru and IBM Peru to identify methods to facilitate the cataloguing and registration of Peru's cultural property. Through this agreement, the elaboration of a manual for photographing and labelling of cultural property has begun.

96. Preventing illicit excavations: Following the enactment of new legislation in 2000, the Regulation of Archaeological Investigations was approved. It sets forth the modalities under which archaeological excavations are to be conducted in order to ensure control over and protection and conservation of archaeological sites and monuments.

97. Export controls: The General Law of Protection of Cultural Heritage states that movable objects belonging to the National Cultural Heritage may not leave the territory without prior authorization given pursuant to specific regulations. This is the case for objects exported for cultural, scientific or artistic exhibitions or for study or restoration, which require the agreement of the competent authorities as well as an insurance policy covering all risks. Replicas of antiquities, and works of art not belonging to the National Cultural Heritage, may be exported without following these official procedures but still need a prior certification issued by the National Institute of Culture.

98. Acquisition and import controls: Peru adheres to the terms of the many international conventions protecting cultural property it is party to, and tries to implement the recommendations adopted in various regional meetings and workshops directed at cooperating in the fight against illicit trafficking.

99. Other measures: The Minister of Education is planning to introduce into the middle level school curricula more emphasis on the value of Peru's cultural heritage so as to develop a personal, social and cultural identity with it, and thereby improve the role of the public in its protection in the future. The National Institute of Culture has developed a programme with students in various colleges in Lima and the provinces to strengthen their appreciation of tangible and intangible cultural heritage.

Saudi Arabia

100. General: Saudi Arabia became a State Party to the 1970 Convention in 1976. The Ministry of Education, through the Deputy Ministry of Antiquities and Museums, is the authority responsible for safeguarding the cultural heritage of Saudi Arabia. This Deputy Ministry directly manages the

main museums in Saudi Arabia. Private museums are under the supervision of the Deputy Ministry and all museums must respect the statutes on antiquities.

101. Preventing illicit transfer of ownership: Saudi museums have registries of cultural property considered to be of significance to the national heritage. No inventory has yet been taken of other cultural property. An official committee has been established, composed of representatives of the Deputy Ministry of Antiquities and Museums, the Ministry of the Interior, INTERPOL, and the Customs Administration. It is responsible for coordinating all efforts to combat illicit trafficking of cultural property.

102. Preventing illicit excavations: Excavations require an authorization by the Deputy Ministry of Antiquities and Museums and must follow strict scientific procedures. Archaeological sites have good security systems, including guards and periodic inspections.

103. Export controls: Cultural property may not be exported without an official permit issued by the Deputy Ministry of Antiquities and Museums. The permit is not granted unless an exhaustive study demonstrates that the export of the object does not contravene the laws in force.

104. Other measures: The Deputy Ministry of Antiquities and Museums publishes books and brochures and uses various media to build awareness of the importance of the cultural heritage and of safeguarding it, as well as the need to comply with the laws related thereto.

Spain

105. General: Spain became a State Party to the 1970 UNESCO Convention in 1986 and to the UNIDROIT Convention in 2002.

106. Preventing the illicit transfer of ownership: Within the Ministry of Education, Culture and Sport, the General Branch of Protection of Historic Heritage is responsible for cultural heritage protection. Within the autonomous communities and cities, additional cultural heritage authorities exist, as well as institutions for protection. The General Branch of Protection of Historic Heritage coordinates the elaboration of the Inventories of Cultural Objects through the Inventory Service, the General Registry of Objects of Cultural Interest and the General Inventory of Movable Objects. These are centralized inventories that include the participation of the autonomous communities and they correspond to the two highest levels of protection of Spanish cultural heritage. Objects included in the inventories receive special legal protection.

107. The Department of Culture also works closely with different national and autonomous security forces, some of which are specialized in cultural protection, to impede illicit trafficking of cultural objects. The national security forces work with INTERPOL and EUROPOL. A project is being initiated between the Civil Guard and the Directorate of Arts and Cultural Property to set up a website with information on the principal activities of the security forces and provide a documentation and photographic database of the major stolen cultural objects in Spain. Spain has a registry of antiquities dealers that by law requires all professionals in the art market to maintain a police book in which they record all objects they commercialize.

108. Preventing illicit excavations: Spain's Central Administration does not directly regulate archaeological sites. The autonomous communities are responsible for issuing permits for excavations, monitoring the work authorized and ensuring preservation of sites. That being said, the State may make available additional assistance to autonomous communities for protective measures.

109. Export controls: Spain's export controls are exclusively administered by the State. By law, an export permit issued by the Directorate of Arts and Cultural Property is required for all objects over 100 years old or that are included in the General Inventory of Movable Objects. Objects declared of "cultural interest" are not exportable unless the Ministry of Education, Culture and Sport grants a temporary export permit. Likewise, in the case of exportation for exhibitions to non-European Union countries, it is also necessary for the same Ministry to issue the permit.

110. Import controls: Spanish law has provisions for import declarations so as to prevent the importation of objects illegally exported from their country of origin, but this is an optional rather than an obligatory measure. Notwithstanding, the customs controls of the State can demand from importers an accreditation of the legal derivation of an object and they will not process the importation of an object that appears suspicious. In such a case police may become involved and legal procedures undertaken, along with official contacts with the country of origin as necessary.

111. Other means: Specialized training is provided to those working in the field of cultural property protection, such as police and customs officers. Public information campaigns and educational programmes are implemented to increase awareness generally of the problem of illicit trafficking of cultural property.

Tunisia

112. General: Tunisia became a State Party to the 1970 Convention in 1975. In 1994, legislation was adopted for the protection of archaeological and historic heritage and traditional arts.

113. Preventing illicit transfer of ownership: Within the Ministry of the Interior, a special heritage unit has been established and it works very closely with the National Heritage Institute. The Institute is under the direction of the Ministry of Culture, Youth and Leisure and is responsible for the management of archaeological, historic and ethnographic heritage. Specifically, its actions include the fight against the theft and sale of archaeological objects, the fight against the importation of illicitly trafficked objects, the organization of training sessions for members of the heritage unit, and training conservators of archaeological sites, museums and guards in security measures. Since 1998 a programme to elaborate a complete inventory of museum objects was begun, permitting rapid dissemination of information to INTERPOL in the event of a theft.

114. Preventing illicit excavations: A strategy is in place for the delimitation of archaeological sites, reinforcement of staff capacities and security measures, and an inventory of objects *in situ*.

115. Export controls: Export of cultural property requires an authorization. The national customs office ensures that this is respected and contacts specialists at the National Institute of Heritage when necessary. The temporary exportation of cultural property for purposes of an exhibition or restoration requires the authorization of the Ministry of Culture, Youth and Leisure.

116. Controls over acquisition: Tunisian legislation requires private museums to maintain a registered inventory including complete information pertaining to acquisitions.

117. Import controls: When illicitly imported cultural property is identified and seized, it is returned to its country of export as, for example, in 1998 with regard to Algeria and Egypt.

118. Other measures: The importance of and appreciation for the national cultural heritage is emphasized and the public is sensitized to the problem of illicit trafficking thereof. From 18 April to 18 May each year the Tunisian authorities organize a "month of heritage" that includes exhibitions, seminars, media campaigns, visits, etc. The conventions protecting cultural heritage are highlighted and non-governmental organizations participate.

Ukraine

119. General: Ukraine became a State Party to the 1970 Convention in 1988. The process for ratification of the 1995 UNIDROIT Convention is under way. Pursuant to the Constitution, “the State provides safeguarding of historical monuments and other objects, which are of cultural value, and takes necessary measures for the return of cultural property to Ukraine”. The Law of Export, Import and Restitution of Cultural Properties (1999) is aimed at the protection of national cultural heritage and international cooperation of Ukraine in the field of culture.

120. Preventing illicit transfer of ownership: Pursuant to certain Presidential Decrees and Executive Orders of the Cabinet of Ministers, the creation of a unified database of transferred cultural properties and a National Register of Cultural Properties are planned.

121. Export controls: A State Service is in place to control transfer of cultural property over the border. The State Service coordinates the government bodies involved in the import, export and restitution of cultural property and monitors their activities in this regard. It develops national measures to protect and secure cultural heritage and cooperates with international organizations. Similarly, the Cabinet of Ministers of Ukraine has formally established a Council for Import, Export and Restitution of Cultural Properties. The Council has adopted a certificate for temporary export and specific procedural instructions related thereto.

122. Other measures: An important measure in the safeguarding and protection of cultural heritage in Ukraine was the establishment of commissions for cultural heritage and its restitution in all regional centres. They provide special control services and expert advice as needed, particularly with regard to cultural property moving across the State border.

PART III

Summaries of reports from Member States not party to the 1970 Convention

Austria

123. The Austrian authorities will examine the possibility of Austria’s ratification of the 1970 Convention but are unable to predict a date as to when this might happen.

Belgium

124. The agreement of the Ministry of Budget having been obtained on 19 September 2002, the proposal to ratify the Convention will be transmitted to the Council of Ministers and afterwards presented to the State Assembly, before going to the Senate. Since aspects of the Convention fall within the realm of competence of federal authorities, advance copies of the proposal have been transmitted to federal entities so that they may accelerate their ratification procedures.

Norway

125. Norway is in the process of ratifying the UNESCO 1970 Convention. Norway became party to the UNIDROIT Convention in 2001.

Switzerland

126. Switzerland is one of the principal countries in the world for trade in cultural property. The Federal Assembly adopted on 21 November 2001 the recommendation to the Parliament to ratify

the 1970 Convention and to pass the law concerning the international transfer of cultural property that would enable Switzerland to ratify the Convention. The new law regulates the return of illegally exported cultural property to its country of origin and tasks the institutions of the Confederation and the cultural property trade to be diligent in this regard. The law also lengthens the prescription period for good faith purchasers from five to 30 years. It strengthens international cooperation and Switzerland's own national measures to protect cultural property and reduce illicit trafficking thereof.

127. The Federal Assembly considers this proposal a priority yet there are certain art dealers that oppose the proposed law. In response to this, the Federal Office of Culture, the Association of Swiss Museums, ICOM Switzerland, various non-governmental organizations, and the Swiss National Commission for UNESCO have merged their efforts to raise the awareness of the public, the concerned professionals and the Parliamentarians.

128. Draft resolution: In view of the information set out in this document, the General Conference may wish to adopt the following draft resolution to strengthen the efficiency of the Convention:

The General Conference,

Having considered 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) (32 C/24),

Recognizing the importance and value of such action and the complementary activities undertaken by the Director-General,

Noting with satisfaction that the symbolic number of 100 deposits of instruments of ratification or acceptance of the Convention has been reached as at 1 July 2003,

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

1. Calls the attention of all States not yet party to the Convention to become parties to the Convention;
2. Recommends that States consider becoming parties to the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (1995) which complements the 1970 UNESCO Convention;
3. Invites States and the Director-General to pursue activities aimed at strengthening regional cooperation, particularly by concluding bilateral agreements for the restitution of stolen or illicitly exported cultural property;
4. Invites Member States and other States Parties to the 1970 UNESCO Convention to submit a further report on the action they have taken to implement the Convention for examination by the General Conference at its 36th session, after prior examination by the Executive Board.

Hundred and sixty-seventh Session

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PARIS, 28 August 2003
Original: English

Item 5.5 of the provisional agenda

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

ADDENDUM

SUMMARY

This document is an addendum to documents 167 EX/20 and 32 C/24. It contains summaries of reports forwarded to the Secretariat between 30 May and 5 August 2003 on actions taken by States Parties to implement the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

Document 32 C/24 Add. is attached hereto.



32 C/24 Add.
28 August 2003
Original: English

Item 8.2 of the provisional agenda

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

ADDENDUM

OUTLINE

This document is an addendum to document 32 C/24. It contains summaries of reports forwarded to the Secretariat between 30 May and 5 August 2003 by States Parties to the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property on actions taken by them to implement the Convention.

Brazil

1. General: Brazil became a State Party to the 1970 Convention in 1973 and acceded to the 1995 UNIDROIT Convention in 1999. Brazil's Constitution offers strong protection to all forms of cultural heritage. The Executive Branch of the Government is required by law to make arrangements for the conclusion of agreements between the Union and the States to improve coordination and development of activities relating to the protection of national historical and artistic heritage and the standardization of complementary State legislation in that field. Notably, the Ministry of Culture has for many years tasked its National Historical and Artistic Heritage Department (hereinafter "IPHAN") with the protection of cultural heritage.

2. Preventing illicit transfer of ownership: Article 216 of Chapter II on Culture of Brazil's Federal Constitution states, in Article 1, "The Government, with the cooperation of the community, shall promote and protect the Brazilian cultural heritage by means of inventories, registries, surveillance, decrees to protect monuments, expropriations and other forms of safeguard and protection". Damage and threats to cultural heritage are penalized in accordance with the law. IPHAN is legally required to keep a register of the Archaeological Monuments of Brazil, as well as the Archaeological, Ethnographic and Landscape Register, the Historical Register and the Fine Arts Register. Property belonging to the Union, States and Municipalities is registered, and privately owned objects are included on a voluntary basis if IPHAN agrees. Compulsory registration of privately owned objects may also occur. All transfers of these properties within the country must be reported to IPHAN and registered properties may not leave the country except for short periods for cultural exchanges at the discretion of IPHAN. Loss or theft of registered properties is to be reported to IPHAN by the owner. If privately owned registered property is to be sold, the Government has a right of pre-emption to it. Violations of the foregoing are punishable. Dealers in antiquities, works of art, manuscripts and old and rare books must register on a special basis with IPHAN and provide it with lists of historical and artistic property in their possession every six months. Auctioneers intending to sell these items must submit a list to IPHAN or face a fine. These items must be authenticated by IPHAN before they may be offered for sale by dealers or auctioneers.

3. Preventing illicit excavations: Pursuant to Law 3924 of 1961, private ownership of land does not provide ownership of archaeological or prehistoric objects contained therein. Excavations must be authorized and registered by IPHAN, be open to Government inspections and follow specified requirements. Archaeological and prehistoric deposits not reported and registered under this law are considered property of the Union. Failure to abide by these laws results in criminal punishment or fines. The Minister of Culture may withdraw the permit for, among other things, failure to comply with the law or the requirements of the permit. Fortuitous discoveries of objects covered by this Law must be reported to IPHAN.

4. Export and import controls: Pursuant to Law 4845 of 1965, a variety of specified cultural property is prohibited from leaving the country. Export for temporary exhibitions of these properties requires specific authorization by the competent institution of the federal administration. Pursuant to Law 3924 of 1961, no object of archaeological, prehistoric, numismatic or artistic interest may be transferred abroad without the express authorization of IPHAN. Violation of this results in summary seizure of the object and the party responsible may be subject to further legal penalties. In order to improve import and export controls, Brazil has adopted a standard application that requires complete information and authentication before the departure of cultural property from, or its entry into, Brazil is permitted. Both the material analysis and review of the pertinent permit information are undertaken by the Superintendent of the region where the object is to enter or leave. Federal Police, Post-Office and Customs authorities work together to implement these controls.

5. Other measures: Brazil in 2002 entered into a bilateral agreement with Peru on the Recovery of Stolen or Illicitly Exported Cultural Properties. This agreement requires both countries, *inter alia*, to prohibit the entry into their respective territories of archaeological, historical and cultural properties from the other contracting Party whenever the required authorization for the export of such property is missing, and to employ legal means to recover and return stolen or illicitly exported properties if requested to do so by the other country. IPHAN is responsible for education and public awareness campaigns. For example, in the fight against illicit traffic of cultural properties, IPHAN promoted an educative campaign with INTERPOL and ICOM that was launched in 1997 and is still ongoing. Federal agents attend workshops for training to recognize stolen or illicitly traded objects. Inventories are carried out in religious institutions and a standard application database was defined and software was created for data entry. IPHAN established a registry and database of Wanted Missing Cultural Properties which it maintains on its website. A specific Department within IPHAN was established in 2002 to work only on missing cultural properties.

Kuwait

6. General: Kuwait became a State Party to the 1970 Convention in 1972. Pursuant to the Law of Antiquities (1960), the Department of Education is responsible for preserving antiquities, which are defined broadly. Violations of this law are punishable by imprisonment and fines. The Law on Intellectual Property Rights (1999) covers drawings, paintings, works of architecture, sculpture, decorative arts and engraving, photographic works and works of applied art. Generally, this law provides protection to such works, in particular through the rights vested in the owner/creator/author.

7. Preventing the illicit transfer of ownership: Moveable recorded antiquities are kept in museums and may not be sold. No one may trade in antiquities without a license from the Department of Education (valid one year and renewable). Traders must abide by the regulations set by the Department of Education, which also inspects antiquities shops. Violations result in the confiscation of the antiquities in question and prosecution. Individuals may keep certain antiquities, or sell or transfer ownership of privately held antiquities, once they are recorded with the Department of Education. Anyone who finds an antiquity must report it to this same Department which will either conserve it, paying the finder a reward, or permit the finder to keep it. Recorded moveable antiquities may not be transformed nor transferred from one place to another without a license from this Department. Any violations are punishable.

8. Export controls: It is prohibited to export any antiquities without a special license issued by the Department of Education. The Department may authorize or refuse exportation or may purchase the object at the price fixed in the exportation request. Exportation may be granted for antiquities being exchanged with a foreign museum or scientific institution, or being offered to a scientific expedition following official excavations, or being temporarily in Kuwait for study. Customs, postal and police officers shall seize all antiquities not licensed for export and deliver them to the Department of Education.

9. Preventing illicit excavations: All antiquities, moveable or immovable, found in Kuwaiti lands, even privately owned land, are public property of the State. The authorization to perform archaeological excavations is restricted to the Department of Education, and to scientific institutions and archaeologists (national or foreign) that obtain a license from the Department. Excavations are closely monitored by the Department and all discovered moveable antiquities are given to the Kuwait Museum. The Department may specifically give to the archaeological expedition certain objects discovered as a reward for their labour. Violation of the conditions required to excavate will result in the cessation of the excavation and revocation of the license.

10. Controls over acquisition: The State may trade an antiquity for another antiquity from another country.

11. Import controls: Anyone importing an antiquity from another country must so notify the Department of Education and they may not sell it without offering it first to this Department.

Poland

12. General: Poland became a State Party to the 1970 Convention in 1974. Prior to this, Poland already had codified regulations ensuring the protection of cultural heritage in the Law on Protection of Cultural Property of 1962, which has been amended over time as necessary. The Law delineates several categories of cultural property to be protected, identified as “monuments”, and authorizes the appropriate Minister responsible for cultural protection to issue legally binding regulations thereon. A new draft law, undergoing legislative proceedings, will adjust these regulations to the standards of the European Union. Poland has established several institutions to protect its cultural heritage, including the Centre of Protection of Public Collections, the Centre of Archaeological Heritage Protection and the National Centre of Monuments Research and Protection.

13. Preventing illicit transfer of ownership: Numerous regulations are in place to protect “monuments”. In 2000 the Minister of Culture and National Heritage issued a regulation on maintaining a central record of cultural property and the register of monuments. An owner or user of a “monument” must inform the municipal/territorial Monuments Conservator of any transfer of ownership, change of use and/or of location of such property. Immoveable and moveable “monuments” as well as collections are entered into a specific register which is maintained by the President of each municipality/territory and does not include library and museum collections (subject to separate regulations). The National Centre of Monuments Research and Documentation maintains the Central Record of Cultural Property. There is also a detailed regulation of how the State acquires moveable “monuments”. A catalogue of stolen or lost cultural property is maintained by the Centre of Protection of Public Collections and it is made available to the police and customs services. Related information is provided on the Centre’s website. In 2002 the Centre entered into a cooperation agreement with the Regional Bureau of the Customs Intelligence Service of the World Customs Organization to enhance the rapid transmission of information regarding lost cultural property. A regulation was issued in 1997 on the registration of museum collections.

14. Export controls: The export of cultural property is prohibited unless, in exceptional cases, the Committee of Export of Cultural Property finds that export of the object will not detriment the national culture and thus authorizes a permit for its export. Items not subject to the general export ban include works of living creators, works of artistic craft and industry produced after 1945, and certain cultural property brought to Poland from abroad. Regulations are in place determining how export permits (for temporary or permanent export) are applied for and issued, as well as which authorities may issue permits, and how property is to be identified and marked. The permit for export is issued in two copies (one for the applicant and one for the Customs Office). Persons who export cultural property without a permit, or who fail to return the object to Poland within the time designated on the temporary export permit, are subject to imprisonment from 3 months to 5 years and the object may be seized.

15. Preventing illicit excavation: In 1994 and 2000, new regulations were issued to establish and improve controls over granting and withdrawing permits for carrying out conservation, archaeological and excavation works. Specified criteria must be met for the permit to be issued. The municipal/territory Monuments Conservator may issue or withdraw such permit and he/she must be

notified immediately when an object that could be considered a “monument” is discovered, or when threats or new circumstances arise that may influence its state of preservation.

Excavated objects are owned by the State and moveable objects resulting from excavations are given to the Monuments Conservator who, after performing the necessary studies, gives the objects to a designated museum or scientific institution. Persons who report that they have found an archaeological object receive an award. Persons who violate the regulations are penalized.

16. Other measures: The formalization of ethical norms to be adhered to by professionals is under consideration. The Polish National Commission of ICOM is also promoting the ICOM code of ethics among museum staff and UNESCO’s International Code of Ethics for Dealers is being promoted by the Ministry of Culture. Poland is particularly committed to cooperating better with antiques dealers to allow licit trade while cutting illicit trade in cultural property. Poland undertakes numerous educational and public awareness-raising campaigns on the specific subject of illicit trafficking of cultural property and the need to protect cultural heritage in general. Publications are issued and, with the help of the mass media, thefts or attempts of illicit export or destruction of cultural property are highly publicized.

Republic of Korea

17. General: The Republic of Korea became a State Party to the 1970 Convention in 1983. The “Protection Law for Cultural Property” was enacted in 1962 and has been amended many times.

18. Preventing the illicit transfer of ownership: The Cultural Properties Administration was established by the Government to efficiently protect and manage all cultural properties. There are two classifications of cultural property: designated properties that have significant historic, artistic or academic values (either national or provincial) and non-designated properties. Moveable designated cultural properties are either National Treasures (to date 223) or Treasures (to date 768). All designated cultural properties are included in a list by the Government that also records changes in ownership or physical condition. Persons convicted for illicit transferring or transporting of cultural property obtained by burglary or illegal excavation may be sentenced to imprisonment for a definite term. Dealers in cultural property are required to keep account books of all transactions and file business reports to the local government, which also verifies the account books. A modified Object ID checklist exists to develop a list of cultural property not of a national character, and dealers are required to complete the form for all objects traded. In the event of conflict or emergency, a system is in place whereby important cultural property is moved to a safe location. The Cultural Properties Administration may hold foreign cultural property if there is a reasonable suspicion that they were illegally removed from the country of origin and may return the property if the circumstances and applicable laws so require.

19. Preventing illicit excavations: Historical sites having a historic or academic importance, and when necessary their surroundings, are designated as protection zones. Surface surveys for buried cultural property must be conducted and presented to the Cultural Properties Administration before construction projects may commence. There are sixteen self-governing district organizations that oversee excavations and cultural property protection at the local level. Land and underwater sites with shell mounds or tombs may not be excavated unless the Cultural Properties Administration authorizes it. Unauthorized excavations are punishable. Any accidental finds must be reported and are usually rewarded.

20. Export controls: Designated cultural property may not be exported unless for an overseas exhibition and with the permission of the Cultural Properties Administration. Non-designated

cultural property may not be exported unless a certificate is issued from the appraisal office and submitted to the customs office.

21. Import controls: Korea has no general import controls specifically applicable to cultural property. However, if such property belonging to a State that is party to an agreement or treaty with Korea is illegally brought into Korea, it shall be returned in accordance with the agreement and the Protection Law for Cultural Property.

22. Other measures: The Internet homepage of the Cultural Properties Administration posts photographs of designated cultural properties as well as other relevant information in case of theft. Awareness-raising projects are implemented through the educational system including promotion of the “Cultural Heritage Charter” and other relevant publications. An international symposium regarding the return of cultural property to its countries of origin and illicit trafficking was organized with UNESCO in Seoul in September 2002.

Hundred and sixty-seventh Session

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

ADDENDUM 2

SUMMARY

This document is the second addendum to document 167 EX/20. It contains a summary report forwarded to the Secretariat by the United States of America on 3 September 2003 concerning implementation of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

Document 32 C/24 Add.2 is attached hereto.



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Item 8.2 of the provisional agenda

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

ADDENDUM 2

OUTLINE

This document is the second addendum to document 32 C/24. It contains a summary report forwarded to the Secretariat by the United States of America on 3 September 2003 concerning implementation of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

United States of America

1. General: The United States became a State Party to the 1970 Convention in 1983 when the Convention on Cultural Property Implementation Act was signed. In so doing, the United States recognized that it is a major destination for pillaged archaeological and ethnological material and documented articles of stolen cultural property. The Department of State has principal implementing responsibilities under the statute and through Executive Order. It administers the Cultural Property Advisory Committee that reviews requests from other countries for United States assistance under the Act and makes recommendations to the President's designee, the Assistant Secretary for Educational and Cultural Affairs. An important consideration in the United States approach to combating illicit trafficking is to *reduce the incentive for pillage and to seek other methods of safeguarding cultural property that is vulnerable to pillage*.

2. Preventing illicit transfer of ownership/import controls: United States implementation of the 1970 Convention includes a procedure for a State Party to request United States import restrictions on certain categories of cultural property under Article 9 of the Convention. Article 9 import restrictions are meant to reduce the incentive for further pillage. If import restrictions are imposed, the United States enters into a bilateral agreement with the other country or takes temporary emergency action. The possibility of an agreement is initiated when a State Party to the Convention submits a request to the United States under Article 9 of the 1970 Convention, which could lead to import restrictions and a bilateral agreement of cooperation. A United States import restriction means that objects representing the restricted categories of material may not enter the United States without an export certificate issued by the country of origin, or verifiable documentation showing that it left the country of origin prior to the import restrictions. United States implementation of Article 7 of the 1970 Convention includes ongoing import restrictions on articles of stolen cultural property from *any* of the States Parties.

3. In addition to imposing import restrictions, a bilateral agreement obliges the United States and the State Party to pursue long-term approaches for safeguarding the cultural heritage by encouraging the development of appropriate policies; inventories; management plans; training for museum professionals, customs and law enforcement officers; public education; and cultural tourism and other sustainable and economic activities. These bilateral agreements also foster greater international access to cultural property by encouraging interchange of materials for scientific, cultural and educational purposes. The United States and Italy are currently embarked on such an effort.

4. Under current agreements or emergency action, the United States imposes import restrictions on archaeological and/or ethnological material originating in *Bolivia, Cambodia, Cyprus, El Salvador, Guatemala, Italy, Mali, Nicaragua and Peru*. The agreement with Canada expired in 2002. An agreement with Honduras is under consideration. In recent years the United States has extended bilateral agreements with El Salvador, Peru, Guatemala and Mali. Due to the excellent safeguards now in place in Canada to protect the national cultural heritage, the agreement with Canada expired in 2002.

5. Other: The United States Bureau of Customs and the United States Department of Justice have recovered and returned cultural property pursuant to Article 9 of the Convention to El Salvador, Guatemala, Peru and Italy. Recoveries pursuant to Article 7(b) of the Convention have benefited China and Turkey. Investigations are under way regarding articles from Iraq and other countries. The State Department has an extensive cultural property website – “International Cultural Property Protection”. All agreements are available on this site as well as image databases of categories of objects that are restricted from entering the United States without an export permit. The site address is: <http://exchanges.state.gov/culprop>.