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Educational, Scientific and  
Cultural Organization

Organisation  
des Nations Unies  
pour l'éducation,  
la science et la culture

Organización  
de las Naciones Unidas  
para la Educación,  
la Ciencia y la Cultura

Организация  
Объединенных Наций по  
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منظمة الأمم المتحدة  
للتربية والعلم والثقافة

联合国教育、  
科学及文化组织

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Item 8.3 of the provisional agenda

**SUMMARY OF THE REPORTS RECEIVED BY MEMBER STATES  
ON THE MEASURES TAKEN FOR THE IMPLEMENTATION OF  
THE 1970 CONVENTION ON THE MEANS OF PROHIBITING AND  
PREVENTING THE ILLICIT IMPORT, EXPORT AND  
TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY**

**OUTLINE**

**Source:** 177 EX/Decision 35 (I and II) and 187 EX/Decision 20 (III).

**Background:** Under the new procedures adopted in 2007 for monitoring the implementation of UNESCO conventions and recommendations for which no specific institutional mechanism is provided (177 EX/Decision 35 (I and II)), the Executive Board has adopted a multi-stage procedure for monitoring and implementing these standard-setting instruments, including the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

The Director-General submits to the General Conference the summary of the reports received from Member States on the measures taken by States during the 2007-2011 period to implement the Convention, which was also examined by the Executive Board at its 187th session (187 EX/Decision 20 (III)).

**Purpose:** This document outlines the status of implementation of the 1970 Convention and provides information on the measures taken by Member States to promote and implement it during the 2007-2010 period.

**Decision required:** paragraph 9.

## BACKGROUND

1. The 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (hereinafter “the 1970 Convention”) was adopted by the General Conference on 14 November 1970 at its 16th session. As at 30 September 2011, there were 120 States Parties to the Convention.<sup>1</sup>

2. Under Article VIII of the Constitution of UNESCO, Member States are required to report on the legislative and administrative provisions that they have adopted and on other measures taken to implement the conventions and recommendations adopted by the Organization. Under the specific multi-stage procedure for monitoring the implementation of UNESCO conventions and recommendations for which no specific institutional mechanism is provided (177 EX/Decision 35 (I)) and under 32 C/Resolution 38, the frequency for submitting such reports on the implementation of the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property is every four years. The purpose of reporting is to illustrate all action taken to implement the Convention and the progress achieved or obstacles encountered by States Parties.

3. It is recalled that Member States are required to report on action that they have taken on conventions and recommendations adopted by the General Conference under Article IV of the Constitution of UNESCO, Article 17 of the Rules of Procedure concerning recommendations to Member States and international conventions and Article 16 of the 1970 Convention applicable to States Parties alone.

4. In accordance with the 2009-2013 timetable of work of the Executive Board’s Committee on Conventions and Recommendations (CR) in respect of the implementation of those standard-setting instruments which the Board is required to monitor, the Executive Board, at its 184th session, approved the guidelines drawn up by the Secretariat for the preparation by Member States of reports on the application of the 1970 Convention (184 EX/Decision 25), on the basis of the framework guidelines approved by the Board at its 177th session (177 EX/Decision 35 (II)). This summary of reports was accordingly examined by the Board at its 187th session (187 EX/20 Part III) and is thus submitted to the General Conference at the present session (187 EX/Decision 20 (III)).

## CONSOLIDATED REPORT

5. The annexed document 187 EX/20 Part III transmits to the General Conference the summary by the Secretariat of the 45 national reports submitted to it as at 30 June 2011.<sup>2</sup> It outlines the major findings collected while the report was being compiled and reflects the main forms of progress achieved and implementation difficulties encountered. This report is supplemented by the comments below made by the Members of the Committee on Conventions and Recommendations (CR) at the 187th session of the Executive Board.

6. During the CR Committee’s debates, the Secretariat was requested to post a summary of each national report online on the Culture Sector’s website, as indicated in document 187 EX/20 Part III, in order to provide additional information to UNESCO Member States. It was also considered desirable for the UNESCO Secretariat to follow the OECD example of compiling statistics on the basis of Member States’ reports for online publication, highlighting the good practices of some countries and those whose measures fell short of requirements. Furthermore, in reply to the question of whether the European Union might become Party to the 1970 Convention,

<sup>1</sup> The list of States Parties is available at:  
<http://portal.unesco.org/la/convention.asp?order=alpha&language=E&KO=13039>

<sup>2</sup> In addition to the 45 reports already received, the report from France was submitted to the Secretariat on 11 October 2011.

the Legal Adviser and Director of the Office of International Standards and Legal Affairs explained that under Articles 19 and 20 of the 1970 Convention, only States might be Parties to the Convention.

7. Another member of the CR Committee noted the importance of the reference to the insufficient protection afforded by European regulations, made in section 4 of the Annex to the document, considering that the situation gave cause for concern, as did the fact that some European Union States Members (Austria, Ireland, Latvia, Luxembourg and Malta) were still not Parties to the 1970 Convention. The UNESCO Secretariat was requested to be more committed to working substantively with the European Union to contribute to the improvement of the situation.

8. After examining document 187 EX/20 Part III and the CR Committee's report thereon (187 EX/50, paragraphs 18 to 20), the Executive Board invited the Director-General to transmit to the General Conference, at its 36th session, the summary of the reports received from Member States on the measures taken to implement the 1970 Convention, together with the Executive Board's comments and any comments that the Director-General might wish to make. The Executive Board also reminded States Parties of their obligations under the 1970 Convention to implement it effectively and, in particular, of their obligation to report under Article 16 thereof. It also stressed that the content of such reports should be as detailed as possible so that the implementation of the 1970 Convention could be understood and evaluated accurately. It encouraged States Parties to the 1970 Convention to assess the national measures taken to implement the Convention so that weaknesses might be identified and appropriate adjustments or improvements made and it invited Member States and the Director-General to pursue activities aimed at strengthening regional and international cooperation, in particular by encouraging the establishment of an international mechanism to facilitate the restitution of stolen or illicitly exported cultural property.<sup>3</sup>

## PROPOSED RESOLUTION

9. In the light of the foregoing, the General Conference may wish to consider the following draft resolution:

The General Conference,

*Bearing in mind* Member States' obligations under Article VIII of the Constitution of UNESCO and Article 17 of the Rules of Procedure concerning recommendations to Member States and international conventions covered by the terms of Article IV, paragraph 4, of the Constitution,

*Recalling* 177 EX/Decision 35 (I and II) on the monitoring of the implementation of UNESCO's standard-setting instruments for which no specific institutional mechanism is provided, and 187 EX/Decision 20 (III),

*Having examined* document 36 C/25,

*Noting* the reports submitted by Member States and other States Parties to the 1970 Convention on the measures that they have taken to implement the Convention, and the information provided by the States Parties on the measures taken to protect cultural property and monitor its illicit import, export and transfer of ownership,

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<sup>3</sup> The Secretariat wishes to recall that such an international mechanism already exists and operates through the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation, which is a platform for discussion and negotiation (but does not play a judicial role). The Committee is seeking ways and means of facilitating bilateral negotiations, and of promoting multilateral and bilateral cooperation with a view to enabling the restitution or return of cultural property, of strengthening public information campaigns on the issue and of promoting exchanges of cultural property.

*Stressing* the importance of transmitting to UNESCO precise information on the measures taken by States to protect cultural property on their territory, particularly in regard to the successes, failures and obstacles encountered in implementing the Convention, and on any requests for assistance that they might make in that respect,

*Aware* of the extreme usefulness of these national reports to the Director-General and of the additional activities undertaken since 2007 in regard to the protection of cultural property,

*Noting with satisfaction* the growing number of States Parties to the 1970 Convention and the intentions of those that plan to become States Parties and thus strengthen the effective scope of this international instrument,

1. *Calls on* Member States that are not yet Parties to the 1970 Convention to accede to it;
2. *Recommends* that Member States also accede to the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects that complements the 1970 UNESCO Convention;
3. *Reminds* States Parties of their obligations under the 1970 Convention to ensure its effective implementation and, in particular, their obligation to report under Article 16 thereof;
4. *Invites* Member States and the Director-General to continue activities aimed at strengthening regional and international cooperation, in particular through greater recourse to the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation as an international mechanism designed to facilitate the restitution of stolen or illicitly exported cultural property;
5. *Requests* the Director-General to support Member States in their efforts to compile reports on the implementation of the 1970 Convention or to accede to it;
6. *Invites* the Director-General to transmit to it, at its 38th session, the next summary of reports received from Member States on measures taken to implement the 1970 Convention, and *decides* to include this item in the agenda of its 38th session.



United Nations  
Educational, Scientific and  
Cultural Organization

**Executive Board**  
Hundred and eighty-seventh session

**187 EX/20**  
**Part III**

PARIS, 19 September 2011  
Original: French

Item 20 of the provisional agenda

**IMPLEMENTATION OF STANDARD-SETTING INSTRUMENTS**

**PART III**

**APPLICATION OF THE 1970 CONVENTION ON THE MEANS OF PROHIBITING  
AND PREVENTING THE ILLICIT IMPORT, EXPORT AND TRANSFER  
OF OWNERSHIP OF CULTURAL PROPERTY**

**SUMMARY**

In accordance with the new procedures approved in 2007 for the monitoring of the implementation of UNESCO conventions and recommendations for which no specific institutional mechanism is provided (177 EX/Decision 35 (I and II)), the Executive Board has adopted a multi-stage procedure for the monitoring of the implementation of these standard-setting instruments, including the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

In compliance with the 2009-2013 timetable of work of the Committee on Conventions and Recommendations on the implementation of these standard-setting instruments, and in pursuance of 184 EX/Decision 25, the Director-General submits to the Executive Board this summary of the reports received from Member States on the measures taken for the implementation of the Convention, for transmission to the General Conference at its 36th session, together with the Board's comments thereon.

No financial and administrative implications are anticipated from the proposed decision.

Action expected of the Executive Board: proposed decision in paragraph 8.

1. The 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (hereinafter the 1970 Convention) was adopted by the General Conference on 14 November 1970 at its 16th session. As at 1 July 2011, there were 120 States Parties to the Convention.<sup>1</sup>

2. Under Article VIII of the Constitution of UNESCO, Member States are required to submit a report on the legislative and administrative provisions they have adopted and on other measures taken to implement the conventions and recommendations adopted by the Organization. In accordance with the specific multi-stage procedure for the monitoring of the implementation of UNESCO conventions and recommendations for which no specific institutional mechanism is provided (177 EX/Decision 35 (I)) and with 32 C/Resolution 38, the periodicity for submitting such reports on the implementation of the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property is set at four-year intervals. The purpose of reporting is to illustrate the action taken to implement the Convention and the progress achieved or obstacles encountered by States Parties.

3. It should be pointed out that reporting by Member States on action taken by them to implement conventions and recommendations adopted by the General Conference is required under Article IV of the Constitution of UNESCO, Article 17 of the Rules of Procedure concerning recommendations to Member States and international conventions, and Article 16 of the 1970 Convention for States Parties alone.

4. In compliance with the 2009-2013 timetable of work of the Committee on Conventions and Recommendations on the implementation of those standard-setting instruments for whose monitoring the Board is responsible (182 EX/Decision 31), the Executive Board, at its 184th session, approved the guidelines drawn up by the Secretariat for the preparation of reports by Member States on the application of the 1970 Convention (see Annex to 184 EX/Decision 25), on the basis of the framework guidelines approved by the Board at its 177th session (177 EX/Decision 35 (II)).

5. Pursuant to 184 EX/Decision 25, the Assistant Director-General for Culture invited States Parties to the Convention, by letter dated 4 August 2010 (Ref. CLT/CIH/MCO/10/449), to submit to the Organization their reports on the implementation of the Convention, if possible by 31 January 2011. In another letter bearing the same date, the Assistant Director-General for Culture also invited Member States of UNESCO that are not Parties to the Convention to provide to the Organization information on progress towards ratification or, as the case may be, on obstacles to the successful completion of such action, if possible by 31 January 2011.

6. As at 30 June 2011, the Secretariat had received 45 answers to those letters, including letters from (i) the following 42 States Parties to the 1970 Convention: Angola, Argentina, Australia, Belgium, Bosnia and Herzegovina, Burkina Faso, Canada, China, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Ecuador, Estonia, Finland, Georgia, Germany, Greece, Hungary, Italy, Japan, Jordan, Lithuania, Mauritius, Mexico, Netherlands, Norway, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Sweden, the former Yugoslav Republic of Macedonia, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America and Viet Nam; and from (ii) the three following States, that are not yet Parties to the 1970 Convention: Botswana, Latvia and Monaco.

7. In accordance with the abovementioned timetable of work and with 184 EX/Decision 25, the Secretariat submits to the Executive Board the summary of the reports received, set out in the Annex to this document, for transmission to the General Conference at its 36th session together with the Board's comments thereon in the light of the Board Members' discussions on the subject.

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<sup>1</sup> The list of States Parties is available at:  
<http://portal.unesco.org/la/convention.asp?order=alpha&language=E&KO=13039>.

A summary of each of the 45 national reports submitted to the Secretariat will be available in English and French on UNESCO's website.<sup>2</sup>

### Action expected of the Executive Board

8. In view of the information contained in this document, the Executive Board may wish to adopt the following draft decision:

The Executive Board,

1. Bearing in mind Member States' obligations under Article VIII of the Constitution of UNESCO and Article 17 of the Rules of Procedure concerning recommendations to Member States and international conventions covered by the terms of Article IV, paragraph 4, of the Constitution,
2. Recalling 177 EX/Decision 35 (I and II) and 184 EX/Decision 25,
3. Having examined document 187 EX/20 Part III and the report of the Committee on Conventions and Recommendations thereon,
4. Noting that the number of reports submitted by States Parties to the 1970 Convention remains very inadequate in view of the obligation of each State Party to report under Article 16 of the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property,
5. Noting with satisfaction that several Member States not yet Parties to the 1970 Convention have provided information on the action taken upon the Convention, and in particular on their intention to ratify it,
6. Stressing the importance of transmitting to UNESCO precise information on the measures taken by States to protect cultural property on their territory, particularly in regard to the successes, failures and obstacles encountered in implementing the Convention, and on any requests for assistance that they might make in that respect,
7. Considering that action to combat trafficking in cultural property needs to be strengthened at the national as well as the international level,
8. Invites the States that are not yet Parties to the 1970 Convention and to the 1995 UNIDROIT Convention, which complements it, to ratify these conventions;
9. Reminds States Parties of their obligations under the 1970 Convention in respect of effective implementation, and in particular their obligation to report under Article 16 thereof;
10. Emphasizes that the content of such reports should be as detailed as possible to enable an accurate understanding and evaluation of the implementation of the 1970 Convention,
11. Encourages States Parties to the 1970 Convention to assess the national measures taken to implement the Convention so that areas of weakness may be identified and appropriate adjustments or improvements made;
12. Invites Member States and the Director-General to pursue activities aimed at strengthening regional and international cooperation, in particular by encouraging the

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<http://www.unesco.org/new/en/culture/themes/movable-heritage-and-museums/illicit-traffic-of-cultural-property/>.

introduction of an international system to facilitate the restitution of stolen or illicitly exported cultural property;

13. Invites the Director-General to transmit to the General Conference at its 36th session the summary of the reports received from Member States on the measures taken for the implementation of the 1970 Convention, together with the Executive Board's comments and any comments that the Director-General may wish to make.



## ANNEX

### SUMMARY OF REPORTS RECEIVED

This annex contains, for information and reference, a summary of the reports submitted to the Secretariat as at 30 June 2011 by 42 States Parties<sup>1</sup> to the 1970 Convention and three States that are not Parties<sup>2</sup> to the instrument, on the most significant measures they have adopted to implement the 1970 Convention and the principles contained therein, and the action they have taken at the national level to combat trafficking in cultural property more effectively. It also draws the attention of the Executive Board to the information provided by the States on the main obstacles and difficulties encountered, and proposes means of overcoming them, drawn from the practical experience of these States.

The information is presented according to the guidelines given to the States for the preparation of their reports, under the following headings:

- Implementation in the national legal system and in the organization of services;
- Inventories and identification;
- Measures taken to prevent illicit excavations;
- Measures taken to control the export and import of cultural property;
- System of exchange, acquisition, ownership and transfer of ownership of cultural property;
- Bilateral agreements;
- Educational means and raising of public awareness – code of ethics;
- Cooperation with other international and regional agencies;
- Adequacy, effectiveness, weakness and adjustments or improvements to be made;
- Other measures and additional comments.

Should additional information become available, the Secretariat will issue an addendum to the present document.

#### 1. Implementation in the national legal system and in the organization of services

Most of the reports received mention that the States have adopted **specific regulations** on the protection of cultural heritage and have **specialist public services** (Mexico) at the national and/or local level, which guarantee the enforcement of these regulations (inter-ministerial and administrative coordination in Jordan, Mexico, Norway, Netherlands and Ukraine for example; cooperation in tax matters between the cultural heritage department and customs officials in Angola). Several States have **legal structures and measures** for dealing with offences against cultural property (Australia, China, Croatia, Cuba, Greece, Latvia, Lithuania, Mexico, Netherlands, Romania, Sweden, Ukraine, United Kingdom and United States).

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<sup>1</sup> Angola, Argentina, Australia, Belgium, Bosnia and Herzegovina, Burkina Faso, Canada, China, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Ecuador, Estonia, Finland, Georgia, Germany, Greece, Hungary, Italy, Japan, Jordan, Lithuania, Mauritius, Mexico, Netherlands, Norway, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Sweden, the former Yugoslav Republic of Macedonia, Ukraine, United Kingdom, United Republic of Tanzania, United States and Viet Nam.

<sup>2</sup> Botswana, Latvia and Monaco.

A number of States have put in place **risk management** programmes and **security plans for the prevention of damage to cultural property** for museums, archaeological sites and monuments (Argentina, Ecuador, Mexico, Norway, Netherlands and Ukraine).

## 2. Inventories and identification

Most countries that submitted a report stated that they describe cultural property with reference to the **definition** provided in the 1970 Convention, and have established a comprehensive national **register** or **list** of all the cultural property in the country's public collections, in which the objects may be ranked according to their heritage value.

Some States use the **Object-ID criteria**<sup>3</sup> (Republic of Korea, for example) to identify their cultural property, and some have **digitized registers and documents** (Canada, Czech Republic and Estonia). Others have created **inventories** and **databases for the management of cultural objects** (Colombia, Ecuador and United Kingdom) accessible to trained staff who are responsible for their protection. There are also lists of property owned by non-governmental organizations and individuals (Jordan and Viet Nam).

**Inventories of public or private objects** and of **ecclesiastical heritage** have also been established in some countries (Ecuador, Finland, Italy, Netherlands and Sweden) and **cooperation** with the **religious authorities** is ensured (in Colombia, Norway and Romania, for example) to ensure specific protection of property used for worship.

With regard to the **spoliation of cultural property during the Second World War**, several States (Germany, Poland and United Kingdom) have adopted specific provisions in order to facilitate the **identification** and **restitution** of the property concerned.

## 3. Measures taken to prevent illicit excavations

**Illegal archaeological excavations** remain a serious problem (for example in Ecuador, Greece, Mexico, Romania and United Kingdom) and it is still very difficult to determine the origin of an object that has been illicitly excavated, and at what moment it was extracted from the ground and exported (Italy, Ukraine). Most States protect their archaeological heritage, by **defining antiquities** (in Cyprus, for example), **identifying archaeological sites and findings** (Saudi Arabia and United Kingdom), **implementing preventive archaeology measures** (Czech Republic), and **prohibiting unauthorized excavation** (Estonia and Ukraine, for example), particularly at historic sites (Viet Nam). Some States consider that **ownership of cultural objects** that have not yet been discovered or have already been extracted from archaeological excavations lies with the public authorities (Angola, Argentina, Bosnia and Herzegovina, China, Ecuador, Hungary, Italy, Mexico, Poland and Ukraine in particular).

In general, excavations are carried out by **specialist agencies** with an **authorization** from the competent authorities (for example, in the former Yugoslav Republic of Macedonia, Lithuania, and Mauritius). **Metal detectors** are a recurrent problem (Estonia and United Kingdom) and although they are not prohibited, a **licence** is sometimes required for their use (Belgium, Germany, Lithuania and Sweden).

## 4. Measures taken to control the export and import of cultural property

Generally, as regards the **export** of cultural property, **permits** are required (Bosnia and Herzegovina, Botswana, Canada, Cyprus, Greece, Hungary, Romania and United Kingdom, among others) and **controls** are ensured (Ukraine and United States, for example), notably in **airports, ports and customs checkpoints** (Colombia and Ecuador) and particularly for **Iraqi**

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<sup>3</sup> Object-ID: an international standard for describing art, antiques and antiquities.

**cultural property** (Germany). However, generally speaking, **European Union regulation** is regarded as a restraint on effective control.

Most of the reports submitted highlight the fact that **specialist police units** (Belgium, Burkina Faso, Colombia, Hungary, Italy, Jordan, Lithuania, Romania and United Kingdom) and **customs units** (Canada, China, Ecuador, Greece, Latvia, Mexico, Romania and United States) have been trained to identify and protect cultural property that is imported and exported, particularly that of museums or of an archaeological nature, and to suppress trafficking (Netherlands, Poland, Sweden and Viet Nam).

In one State that is not yet Party to the Convention (Monaco), the **non-distainability** of loaned cultural property is **guaranteed**.

## **5. System of exchange, acquisition, ownership and transfer of ownership of cultural property**

Several States have established the principle of the **inalienability** of archaeological property or cultural property belonging to the State (Belgium, Burkina Faso, China, Ecuador, Finland, Portugal, Republic of Korea, Romania and Ukraine) and sometimes of that belonging to individuals (Cyprus for example) while others allow institutions to part with their cultural property (Australia for example). In Australia and Burkina Faso the sale of **human remains** and **ritual, secret and sacred indigenous objects**, is prohibited. Some States also believe that the European Directive of 1993 is insufficient and too vague to facilitate the return and restitution of cultural property (Czech Republic and Netherlands).

In certain countries, **art market professionals** are either not regulated by the State or simply follow general trade rules (Angola, Costa Rica, Germany, Hungary and Latvia) while in countries such as Cyprus and Jordan, trade in antiquities is prohibited. Generally, professionals are granted a **licence** and required to keep an **account book** or **register** specifying the nature of their transactions (Belgium, Greece, Italy, Monaco, Norway and Romania) and must sometimes even provide certificates of authenticity (Italy). In Australia, art dealers must pass a **knowledge test** before they can practice the profession.

Some States have provided their heritage service or specialist police with catalogues and **databases of stolen objects** (Croatia, Czech Republic, Hungary, Italy, Latvia, Lithuania, Norway, Romania, Ukraine and United Kingdom).

Generally speaking, there is a **disproportion** between the **scale of the movement** of cultural property and of **trafficking** and the **limits of regulation**. However, in some countries, the sale of archaeological property is prohibited, sometimes specifying a date prior to which the property is considered as *extra commercium* (Greece). **National treasures** generally qualify (Finland and Japan) and are banned from export (Bosnia and Herzegovina and Croatia).

As regards the **sale of cultural property on the Internet**, there is growing awareness in some States of the importance of combating this new form of trafficking through staff training (Croatia and Sweden) and by **signing agreements** with virtual auction platforms (Germany and United Kingdom).

## **6. Bilateral agreements**

Some States consider that these agreements are not necessary in view of the universal dimension of the Convention, but, the majority of them have signed bilateral agreements, arguing that it facilitates the implementation of the Convention and enhances its effectiveness (Ecuador, Greece, Mexico and United States), particularly for the protection of property considered to be vulnerable (Argentina, Australia and China). **Cooperation for the return** of cultural property is also favoured by the lending of objects, joint excavations and the organization of joint exhibitions (Italy).

However, most States understand the importance of **international and regional cooperation** (particularly in respect of police and customs services and mutual legal assistance in criminal matters) while denouncing, however, the **lack of political will** to cooperate (Latvia) in the fight against trafficking in cultural goods, particularly of the States that are recipients of cultural property.

## 7. Educational means and raising of public awareness - code of ethics

Several States have already established **training programmes** and **advertising campaigns**, on the radio and television (Argentina, Canada, Colombia, Estonia, the former Yugoslav Republic of Macedonia, Greece, Italy, Latvia, Mexico, United Kingdom and United States), but it is generally argued that **UNESCO should play a greater role** in education and awareness raising (Bosnia and Herzegovina, Greece, Norway and Romania) and in the development of ethical standards for the protection of cultural property (such as what is done in Mongolia with support from Monaco). This would involve **translating legal texts** contained in the cultural heritage laws database, conducting **awareness campaigns** for young people, local populations and the art market, organizing and facilitating the organization of seminars and providing training for professionals (Canada and Viet Nam).

In support of these requests, it is recalled that **raising the awareness of communities** is a lengthy and complex process, particularly in developing countries where trafficking is a potential source of income. Consequently, development of awareness-raising policies should be aimed at **local communities, tourists, young people** and **universities** (Cuba and Georgia). Nevertheless, this action can only be truly effective if it is coupled with a real incentive **to regulate effectively professions related to the art market**. One State (Netherlands) has developed a set of cards raising awareness about the protection of heritage and the implications of trafficking in cultural property.

Several countries adhere to **codes of ethics** for museums and dealers in cultural property (ICOM Code of Ethics and national codes of ethics), and ensure their dissemination (Republic of Korea). It is recognized, however, that as these texts are not binding, few countries guarantee their effective implementation.

Lastly, one State has adopted **specific directives for museums, libraries and archives** in order to better fight trafficking in cultural property (United Kingdom) and another (Poland) ensures the publication and distribution of **magazines** listing stolen and/or lost cultural property.

## 8. Cooperation with other international and regional agencies

Most of the reports analysed show that the majority of States **cooperate with INTERPOL** particularly through the establishment of National Central Bureaux of INTERPOL. The database on stolen works of art developed by the Organization is freely accessible to the public and has proven to be a tool that is used extensively and updated by the State authorities.

With regard to the 1995 **UNIDROIT Convention**, some States reported that they were in the process of ratifying the instrument (Burkina Faso and Sweden) and others said that they have incorporated certain provisions of it in their legislation (Netherlands for example) while not ratifying it. For one State (United Kingdom) the time limit (50 years) of the Convention is an obstacle to its ratification.

Cooperation with the **World Customs Organization (WCO)** is not yet ensured at the national level, but is at the regional level (Regional Intelligence Liaison Office - RILO). The UNESCO-WCO **Model Export Certificate for Cultural Objects** is well known and is frequently referred to.

The ICOM **Red Lists** and the “**One Hundred Missing Objects series**” are considered to be necessary by most States and their use for educational purposes and for the identification of missing property is appreciated (Argentina).

## 9. Adequacy, effectiveness, weakness and adjustments or improvements to be made

For several countries, it is alleged that the payment of **compensation to the possessor in good faith** is an obstacle to restitution and that the provisions of certain civil codes are over protective of the owners, even if the object was obtained by criminal means (Poland). Moreover, it is considered complicated to prove ownership or illegal possession of an object (Netherlands) and to define good faith.

The other main obstacles to restitution of property more specifically concern the **implementation of European Community provisions** (EEC Council Regulation of 9 December 1992 and Council Directive of 15 March 1993): the time limit for appeal for restitution in countries that have implemented these texts, the lack of border control and the lack of permits required for exporting cultural property below a certain value in the European area. There is a working group focusing on the revision of this Directive (Finland).

Some countries identified several obstacles to restitution: **differences in the definition** of cultural property, **varying degrees of protection** granted under different legislation (Greece), **cost and length of procedures** (Hungary), excessive disparities in the **investigative powers of the police** (Italy).

## 10. Other measures and additional comments

Generally speaking, in regard to action to combat trafficking in cultural property, particularly on the **Internet**, it is requested that **UNESCO become more actively involved** in the task with the main international players in this field (Ecuador and Netherlands) and that an International Tribunal be established for disputes regarding cultural property (Ecuador).

It is acknowledged that the **UNESCO Database of National Cultural Heritage Laws** is a highly appreciated and practical tool, particularly thanks to its universality and because it is an authoritative reference on past and current regulations applicable in a given territory. However, several States request that UNESCO take responsibility for the official translation of the texts posted on the Internet.

Several States stated that they followed closely the **work of the UNESCO Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation**, either by participating as a member or as an observer. Some states wished to be involved merely actively in sessions by ensuring the participation of specialists, but were forced to give this up for financial reasons. Thus, it is requested that the Secretariat of the Intergovernmental Committee cover more of the travel expenses of foreign experts.



**General Conference**  
36th Session, Paris 2011

# 36 C

United Nations  
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Organisation  
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pour l'éducation,  
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науки и культуры

منظمة الأمم المتحدة  
للتربية والعلم والثقافة

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## **SUMMARY OF THE REPORTS RECEIVED FROM MEMBER STATES ON THE MEASURES TAKEN TO IMPLEMENT THE 1970 CONVENTION ON THE MEANS OF PROHIBITING AND PREVENTING THE ILLICIT IMPORT, EXPORT AND TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY**

### **CORRIGENDUM**

Paragraph 5 of the document should read as follows:

5. The annexed document 187 EX/20 Part III transmits to the General Conference the summary by the Secretariat of the 46 national reports<sup>1</sup> submitted to it as at 30 June 2011.<sup>2</sup> It outlines the major findings collected while the report was being compiled and reflects the main forms of progress achieved and implementation difficulties encountered. This report is supplemented by the comments below made by the Members of the Committee on Conventions and Recommendations (CR) at the 187th session of the Executive Board.

<sup>1</sup> The report from Switzerland had been transmitted to the Secretariat as at 30 June 2011 and must also be included.

<sup>2</sup> In addition to the 46 reports already received, the report from France was submitted to the Secretariat on 11 October 2011.