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**REPORT BY THE INTERGOVERNMENTAL COMMITTEE FOR
PROMOTING THE RETURN OF CULTURAL PROPERTY TO ITS
COUNTRIES OF ORIGIN OR ITS RESTITUTION IN CASE OF ILLICIT
APPROPRIATION, ON ITS ACTIVITIES (1994-1995)**

SUMMARY

Since the twenty-seventh session of the General Conference the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation has met once, for its eighth session, in Paris, France, from 24 to 27 May 1994.

This document contains the final report of the eighth session of the Committee and a report on the implementation by the Secretariat of the recommendations adopted at that session.

**FINAL REPORT OF THE INTERGOVERNMENTAL COMMITTEE
FOR PROMOTING THE RETURN OF CULTURAL PROPERTY
TO ITS COUNTRIES OF ORIGIN OR ITS RESTITUTION IN
CASE OF ILLICIT APPROPRIATION**

Eighth session (Paris, 24-27 May 1994)

I. INTRODUCTION

1. The eighth session of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation was held at UNESCO Headquarters, Paris, from 24 to 27 May 1994. Nineteen of the 20 members of the Committee attended the meeting. A representative of the International Council of Museums took part in an advisory capacity, Forty-six Member States which were not States members of the Committee were also represented. Three States which were not members of UNESCO sent observers, as did several international organizations, including the International Criminal Police Organization (INTERPOL), the Customs Co-operation Council (CCC) and the International Institute for the Unification of Private Law (UNIDROIT).

II. OPENING OF THE SESSION

2. An opening address was delivered by the representative of the Director-General, Mr Henri Lopes, Assistant Director-General for Culture, who welcomed participants. He referred to UNESCO's various activities to combat illicit trafficking, mentioning specifically the very useful co-operation with ICOM in connection with objects stolen from the site of Angkor (Cambodia) and problems encountered at the moment in the States of Central and Eastern Europe, where legal deficiencies were making it all too easy for traffickers to operate across frontiers. This upsurge in illicit trafficking in cultural property, coupled with the growing interest of many States in preventing it, led the representative of the Director-General to raise the subject of the future of the Committee, and to suggest that its resources and terms of reference should be commensurately increased.

III. ELECTION OF THE CHAIRPERSON

3. Mr Alfonso Ortiz Sobalvarro (Guatemala) was elected Chairperson of the Committee. On taking up his duties the new Chairperson thanked the members of the Committee for their confidence in him and expressed his sincere gratitude to the outgoing Chairperson, Mr Y. Tzedakis (Greece), for the work he had done.

IV. ADOPTION OF THE AGENDA

4. The provisional agenda for the session (CLT-93/CONF.203/1 Prov.) was adopted without amendment.

V. ELECTION OF THE VICE-CHAIRS AND THE RAPPORTEUR

5. The following members of the Committee were elected Vice-Chairs: Ethiopia, Italy, Kuwait and Republic of Korea. The Committee elected Mr J.P. Pruszyński, the representative of Poland, as Rapporteur.

VI. REPORT BY THE SECRETARIAT ON THE STEPS TAKEN TO IMPLEMENT THE RECOMMENDATIONS FORMULATED BY THE INTER-GOVERNMENTAL COMMITTEE AT ITS SEVENTH SESSION

6. Introducing the written report (CLT-93/CONF.203/2 and CLT-93/CONF.203/2 Add.) the Secretariat mentioned the two cases pending before the Committee, noting that the claim of Turkey against Germany for a sphinx from Boguskoy was in bilateral negotiation. Construction plans for the planned Acropolis Museum to house the Parthenon marbles were being finalized. The Secretariat repelled on a number of cases, reported in the press, where returns had taken place.

7. In respect of international co-operation, the Secretariat reported on a general study to the Executive Board of UNESCO concerning the reinforcement of UNESCO's action to protect the cultural heritage. Requests for UNESCO's assistance in the protection of cultural property, including movables, during armed conflict, and current efforts to improve the working of the Convention for the Protection of Cultural Property in the Event of Armed Conflict (the Hague Convention) (1954) were described. UNESCO continued to participate in the work of UNIDROIT on a legal instrument that would complement the 1970 UNESCO Convention by dealing with aspects of private law. Other multilateral efforts to obtain the return of cultural objects, such as the Directive and Regulation of the European Union and the scheme of the Commonwealth of English-speaking Countries, were described. The Secretariat had attended a number of international meetings to broaden knowledge of the Convention and the work of the Committee, and was working with other bodies on the co-ordination and exchange of computerized information on cultural objects.

8. Progress in the fight against illicit traffic since the last meeting of the Committee was noted: the increase from 71 to 81 of the number of States Party to the 1970 Convention, the issue of a number of notices of stolen cultural property for States Party to the Convention, and the holding of regional workshops at Jomtien (Thailand), Keszthely (Hungary) and Arusha (United Republic of Tanzania). A national workshop had been held in Phnom Penh. Mention was also made of the development of commercial data bases which could be used in the fight against illicit traffic.

9. The Secretariat had continued to publicize the work of the Committee, by press releases, participation in newscasts and multiple contacts with the media generally. There was increasing public concern about illicit traffic and it was noted that the present volume of press clippings prepared for the meeting (CLT-93/CONF.203/INF.5) was twice the size of that last prepared for the Committee, indicating a considerable increase in public interest.

VII. BILATERAL NEGOTIATIONS

10. In respect of the Parthenon marbles, the United Kingdom observer explained that there had been wide consultation within the British Government and with the trustees of the British Museum, that the marbles had been legally acquired and that, as the British Museum was the

owner of the marbles, expropriation of their property would be regarded as confiscatory. The Greek delegate gave a short history of the issue and disputed the statement that the marbles had been legally acquired. He felt that all issues relating to the marbles were open to discussion and wanted efforts to resolve the dispute within UNESCO to continue. The Chairperson of the Committee gave the floor to a member of the British Committee for the Return of the Parthenon Marbles who spoke in favour of the return of the marbles to Greece. It was decided that the Secretariat would seek further information on the legal arguments made by the observer from the United Kingdom with a view to a more detailed explanation of those aspects which had not previously been before the Committee. The representative of Greece and the observer from the United Kingdom agreed to this procedure.

11. The Rapporteur, speaking in his capacity as representative of Poland, took the floor and shared with the Committee his thoughts on the legal problems posed by the fight against illicit traffic. He outlined the situation in his country concerning the illicit traffic in cultural property with reference to specific examples. He also mentioned the case of a donation made to the Polish State and deposited in the Museum of Lviv, a city that was no longer on Polish territory. In connection with other cases, he informed the Committee that Poland and the Russian Federation had signed a co-operation agreement with a view to facilitating the return of Polish cultural property at present held on Russian territory. He underscored the importance of such bilateral agreements.

12. One participant, drawing attention to his country's interest in the Conventions of UNESCO, described Turkey's position in the fight against the illicit traffic in cultural property and mentioned the most recent cases of restitution in favour of that country. He emphasized the key role that a certificate of provenance could play in the fight against illicit traffic, and hoped that the Secretariat would be able to prepare for the ninth session of the Committee a study setting out the arguments for and against the introduction of such a certificate. He thanked the Metropolitan Museum (New York) for its exemplary action in returning the Lydian Hoard and mentioned the donation of a Roman Sarcophagus which had been stolen from Turkey (in 1986) and displayed in the Brooklyn Museum (New York), to an American-Turkish Foundation, which will retain it for two years for tax purposes and then return it to Turkey. He deplored the very high cost of the legal action necessary to secure the restitution of stolen cultural property that had entered foreign territory illicitly. Many other speakers had encountered the same problem.

13. In respect of the case mentioned in section 1, paragraph 5, of the Secretariat's report (CLT-93/CONF.203/2 Add.), one member of the Committee stated that the treasure had certainly been illegally excavated, that the antiquarian concerned should be named in the documents of the meeting and that the same mechanism of donation to a foundation in the United States had been used as in the Turkish case.

14. The Chairperson spoke briefly in his capacity as the representative of Guatemala to inform the Committee of the situation in his country regarding the illicit traffic in cultural property. He mentioned the case brought before the Court of Illinois in Chicago, emphasizing the excellent co-operation between his government and the Government of the United States. He also referred to the problem of forged export permits.

15. The representative of the Republic of Korea requested in his speech the deletion of paragraph 2 of the Addenda to the report by the Secretariat (CLT-93/CONF.203/2 Add). The Secretariat said that the report had already been distributed to Member States and therefore paragraph 2 could not be deleted from it; however his request would be recorded in the final

report. Having been given this information, the same member of the Committee underscored the importance of promoting the return and restitution of cultural property and of UNESCO's action in that area. His government was particularly interested in those questions and above all in the establishment of an inventory of the cultural property originating in his country. He pointed out that cultural property had the same value as intellectual property in a nation's heritage. He also criticized the ambiguity of the phrase: '... when bilateral negotiations . . . have broken down or come to a halt' in the *Guidelines for the use of the 'standard form concerning requests for return or restitution'*.

16. An observer described the situation in Bolivia with regard to the fight against the illicit traffic in cultural property, giving specific examples. He also spoke of the success of co-operation between his government and the Governments of the United States and Canada, especially in the recent case concerning textiles of religious significance from the community of Coroma. Looking beyond bilateral negotiations, he appealed for greater international co-operation in that domain, using more flexible restitution procedures.

VIII. INTERNATIONAL CO-OPERATION

17. Two members of the Committee mentioned the language problem for Spanish-speaking jurists set by international legal instruments (such as the UNIDROIT draft convention) which were only bilingual, in English and French.

18. One participant spoke of his government's keen interest in the work of the Committee. He described the situation in his country regarding the illicit traffic in cultural property, providing many examples. He said that Italy was both a country where cultural property was stolen and one in which cultural property acquired illegally was traded. He stressed that the fight against the illicit traffic in cultural property should take three forms: the improvement of legal protection; the computerized inventorying of cultural property (5 million files were currently available on the Italian heritage); and the creation of operational structures within national police forces. He wanted to see an international fund set up to facilitate the restitution of stolen cultural property. Many speakers, representatives of members of the Committee and observers alike, supported the establishment of such a fund and said that it had already been the subject of an Article of the 'Arusha Appeal'. The observer from ICOM explained that ICOM had in fact been successful in locating an object stolen from Côte d'Ivoire in the sale-room but that no funds had been available to purchase it. However, another view was expressed that such a fund risked encouraging illicit traffic further by offering a prospect of compensation to buyers of stolen cultural objects: its use should be restricted to assisting in documentation and reducing outflow.

19. One member of the Committee drew attention to the problem of the huge archaeological excavations in Sri Lanka and stated that clandestine excavators too often set to work more quickly than the archaeologists. The Committee should consider the problem and propose practical measures to deal with such practices. One member of the Committee described the situation in Nepal, where objects were stolen from major complexes such as the one in the Kathmandu valley, with a view to illicit export. He announced that new legislation was being drawn up in his country.

20. One member of the Committee provided information concerning the situation with regard to the restitution of cultural property to Kuwait in the wake of the Gulf War and asked for the Committee's support in order to secure a rapid resolution of the problem. He explained

the difficulty of return processes when documentation concerning the items had been deliberately destroyed.

21. One observer spoke about the situation regarding the illicit traffic in cultural property in Lebanon in the aftermath of 17 years of armed conflict. He said that during a bombardment in 1982 43 crates of *objets d'art* belonging to the National Museum of Beirut had been destroyed. Many other items had been stolen and were now on the international art market. Another observer stressed the close links between the 1970 and 1954 Conventions, especially in countries such as the former Yugoslav Republic of Macedonia that were situated in regions disrupted by armed conflict. She said that the authorities in her country would shortly be announcing the succession of that State in respect of the Conventions of UNESCO. Many other speakers emphasized the importance of those Conventions, and the Committee endorsed a proposal to encourage the Member States of the Organization to ratify them.

22. One observer wished to express his pleasure at the recent successful resolution of cases involving the restitution of cultural property as a result of collaboration between the authorities of the United States and several South American and European countries. These cases now constituted valuable legal precedents which would be very useful in the future. While regretting the cost of litigation in the United States, he encouraged source countries to use 'pro bono' lawyers who would work for no, or little cost. He mentioned his satisfaction at the agreement reached by the Greek Government with Michael Ward which would ultimately result in the return of the Aidonian tomb treasure to Greece. He told the Committee of the work done by the United States Information Agency (USIA), which was taking an active role in the prevention of illicit traffic and in the process of restituting property that had entered United States territory illegally. He also described the role played by the State Department, which operated a specialized service acting as intermediary between the various holders of objects (whether institutions or private citizens) and the governments of the countries in which they had been illicitly acquired.

23. Referring to the situation in Australia with regard to the illicit traffic in cultural property, one observer emphasized the great value of the objects belonging to that country's natural heritage. He also pointed to the situation in another country in the region, Cambodia, which was the victim of heavy trafficking in cultural property. Appealing for greater resources to be invested in preventing illicit trafficking in items belonging to the national heritage, he emphasized that efforts to reconstitute the national heritage should not take the form of clashes between States.

24. The observer from UNIDROIT briefly outlined the background to the draft convention and described the various stages leading up to its adoption. One member of the Committee wished to state that, while his government recognized the importance of the UNIDROIT draft convention, it had reservations concerning some of its articles. The observer from UNIDROIT explained that the wording that had been distributed to the participants had been adopted at the fourth intergovernmental meeting of experts in Rome, Italy, in October 1993. It constituted a basis for discussion at the diplomatic meeting to be held in 1995 at which the final wording of the convention would be adopted. The representative of Italy confirmed that his government was considering the possibility of organizing the diplomatic meeting in Italy. Several countries requested that the UNIDROIT convention be translated into Spanish.

IX. MEASURES TAKEN TO COMBAT THE ILLICIT TRAFFIC IN CULTURAL PROPERTY

25. The Secretariat provided information on the growing number of international, national and private initiatives taken to draw up lists of stolen cultural property that might turn up on the international art market. One member of the Committee stressed the importance of having a central data base on lost and stolen property and its recovery which would benefit all the Member States.

26. In accordance with the third recommendation adopted by the Committee at its seventh session, ICOM had, at the request of the Secretariat, prepared a study concerning the question of inventories in the area of illicit traffic. The ICOM observer gave a brief presentation of the document entitled *National Inventories of Cultural Property. The Museum viewpoint*. Annexed to the document was the draft computerized registration form for art objects proposed by ICOM's International Documentation Committee (CIDOC).

27. One member of the Committee presented the computerized inventory of cultural property stolen in Italy or that might be available on the Italian art market. It had been built up by the specialist services of the police force (Carabinieri / Nucleo per la tutela di patrimonio). The system's effectiveness was illustrated by reference to specific cases, and it could offer a useful example for States wishing to equip their own national police forces with modern documentation resources. Many speakers, both representatives of members of the Committee and observers, expressed their interest in such systems. However, one member remarked that the installation of such sophisticated tools was not necessary initially for developing countries such as Zaire.

28. Another member of the Committee referred to the situation in Angola in that area and said that the police should be playing an important role in the struggle against illicit traffic. Other speakers agreed with that view and emphasized the need for training in that area for the police.

29. One member of the Committee, giving specific examples, described the situation in Ethiopia with regard to the illicit traffic in cultural property and said that most of the States of Africa, Latin America and Asia were in a similar position. He stressed that many objects of great value for the heritage were completely unprotected because they were in use in everyday social and religious life. He hoped that more effective means would be found to co-ordinate efforts to secure the return and restitution of cultural property. He mentioned certain Ethiopian items that were currently held abroad, including the royal treasure, the stela of Axum and the famous icon 'The stigmata of Christ'.

30. One observer, referring to the special situation in the new States that used to belong to the former USSR, described in detail the alarming situation with regard to the theft of and illicit traffic in cultural property in the Russian Federation. One member of the Committee pointed out that a similar situation existed in other States of Eastern and Central Europe.

31. The observer from INTERPOL gave a brief account of that organization's activities to combat illicit traffic. He said that INTERPOL was specifically concerned with international criminal cases, and particularly the fight against thieves and traffickers, and that it regularly issued bulletins corresponding to its computerized file of stolen property, which was updated on the basis of the information received from police forces in INTERPOL's Member States.

INTERPOL also organized training courses for police on the prevention of illicit trafficking in cultural property.

32. The observer representing the Customs Co-operation Council described that organization's mode of operation and main objectives, referring to the International Convention on Mutual Assistance for the Prevention, Investigation and Repression of Customs Offences (Nairobi, 1977) which contained an annex (Annex XI) on the repression of illicit traffic in cultural property.

33. One observer emphasized the importance for all States but particularly for the countries of Africa of prevention and of training in the fight against illicit trafficking. He described the situation in Mali by way of example, quoting specific cases and said that Mali was the first State in Africa to have concluded agreements with the United States relating to the importation of cultural property that had been illicitly exported from its country of origin.

34. Other observers said that transit and market States should be represented on the Committee and that a multilingual glossary of legal terms would assist the authorities of States preparing new legislation.

X. PUBLIC INFORMATION

35. One member of the Committee emphasized the importance of educational information for developing countries such as the United Republic of Tanzania. He suggested that the final recommendations of the regional workshops should be clearly addressed to States and the Appropriate organizations.

36. The observer from ICOM gave a brief account of her public information activities quoting by way of example the collection of publications entitled "One-hundred missing objects". The first issue on Cambodia had already proved very effective. She argued for an increase in UNESCO's budget allocation to deal with illicit trafficking.

37. One member of the Committee and several observers expressed the hope that the States would pass on information about press articles on the struggle against illicit trafficking and the problems linked to the return and restitution of cultural property thus enabling the Secretariat to increase its range of sources for the press file which was prepared for the Committee. s sessions.

XI. OTHER BUSINESS

38. The Secretariat informed the Committee of the progress made on the studies carried out with the support of the Netherlands authorities concerning a possible revision of the 1954 Convention proposed by the Islamic Republic of Iran and the Netherlands. In that connection, one observer explained the motives of the Netherlands Government and provided details of the meetings already held or planned. The observer of the United States explained that his government would be submitting the question of accession to the Hague Convention to the Senate for approval possibly with a view to an accession qualified by declarations or reservations.

39. One member of the Committee said that it might be useful to devise an acronym which would make it easier to refer to the Committee in official documents.

40. A consultant introduced his report, entitled 'Feasibility of an International Code of Ethics for Dealers in Cultural Property for the Purpose of More Effective Control of Illicit Traffic in cultural Property' which was welcomed by a number of delegates as an important contribution. This report had been commissioned by the Secretariat in implementation of a recommendation of the sixth session of the Committee. A working draft had been presented at the seventh session, in Athens, in 1991. The Secretariat said that the document would be distributed widely in English and French before the next session of the Committee. The consultant explained that the Code was not intended to replace provisions either of national legislation Or international conventions but to supplement them, to enlist the co-operation against illicit traffic of those involved in the buying and selling of cultural property and to standardize the principles on which they operated. The draft code was largely based on existing codes but was designed to be more comprehensive. In the discussion of this report, one Committee member queried the meaning of the word trader' and another wanted a provision included in the Code which would require dealers to abide by principles and techniques of conservation.

41. An observer representing the *International Association of Dealers in Ancient Art* provided a brief account of this recently (1993) established organization, which brought together dealers in ancient art from Europe and the Mediterranean basin. He was at pains to emphasize that its members were making as effective a contribution as they could to the struggle against the illicit traffic in cultural property.

42. Several members of the Committee referred to an information note concerning the composition of the Committee, which pointed out that no importing State or State with an art market was still a member of the Committee. One member of the Committee said that the hearing given to observers sufficed to make the views of those States known.

XII. DATE AND PLACE OF THE NINTH SESSION OF THE COMMITTEE

43. It was decided that the Committee would meet at UNESCO Headquarters in Paris in September 1996 for its ninth session.

XIII. INVITATIONS TO THE NINTH SESSION OF THE COMMITTEE

44. After examining the list of the organizations to be invited (adopted at the seventh session of the Committee in 1991) and taking account of those attending the current session, the Committee adopted the following new list:

1. Intergovernmental organizations:

Agency for Cultural and Technical Co-operation (ACCT)

International Centre for the Study of the Preservation and the Restoration of Cultural Property (ICCROM)

Commission of the European Union

Customs Co-operation Council (CCC)

Council of Europe

African Cultural Institute (ACI)

International Institute for the Unification of Private Law (UNIDROIT)

Arab League Educational, Cultural and Scientific Organization (ALECSO)

International Criminal Police Organization (INTERPOL).

2. Non-governmental organizations:

International Association of Art Critics

International Council on Archives

International Council on Monuments and Sites (ICOMOS)

International Council of Museums (ICOM)

World Federation of Friends of Museums

International Bar Association

Organisation pour les musées les monuments et les sites d'Afrique (OMSA)
(consultative status)

International Union of Local Authorities.

3. Other organizations:

Commonwealth Parliamentary Institution

International Confederation of Art Dealers (CINOA)

International Foundation for Art Research

International Association of Dealers in Ancient Art.

XIV. ADOPTION OF THE RECOMMENDATIONS OF THE SESSION

45. The draft recommendations were presented and considered one by one. After considering the amendments proposed by several of its members and having adopted some of those amendments, the Committee adopted the recommendations annexed to this report.

XV. CLOSURE OF THE SESSION

46. The Chairperson thanked all participants for their co-operation and their many contributions to the work of the session and declared the eighth session closed.

ANNEX I

Recommendation No. 1

The Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation,

Recalling that the United Nations General Assembly and the UNESCO General Conference have passed a series of resolutions concerning the return and restitution of cultural property,

Recalling that the Regional Workshop on the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property held in Jomtien, Thailand, from 24 to 28 February 1992, and the International Workshop on the Protection of Artistic and Cultural Patrimony held in Courmayeur, Italy, June 1992, recommended various measures to realize the objectives of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation, *inter alia*, an appeal to Member States which have not yet ratified to become parties to the UNESCO 1970 Convention and the establishment of a network of data bases on illicit traffic in cultural property,

Also recalling that this Committee at its seventh session adopted a recommendation urging the UNESCO Secretariat to expand its co-operation with the United Nations in establishing data bases on illicit traffic in cultural property,

Considering that in bilateral negotiations for the return and restitution of cultural property both parties' co-operation in exchanging prompt and accurate information on the property to be returned and restituted is essential for the successful conclusion of the negotiations,

1. Invites States Parties to the Convention to implement fully the provisions of the Convention and the aforementioned recommendations;
2. Urges Member States which have not yet ratified the Convention to become parties to it as soon as practicable;
3. Appeals to all Member States that they co-operate in exchanging information on the cultural objects to be returned or restituted;
4. Invites the Director-General to explore the possibilities of establishing a universal network of data bases on cultural objects at the Secretariat;
5. Also invites the Director-General to take initiatives in implementing the Convention, such as:
 - (i) making a second appeal to Member States;
 - (ii) convening or encouraging international and regional conferences on the return and restitution of cultural objects, as has already been done with the holding of the Arusha workshop in collaboration with ICOM in September 1993; and
 - (iii) examining ways of encouraging private owners to give public access to private collections of important cultural property;

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- (iv) also examining ways of encouraging private owners to treat cultural property in their possession in accordance with the norms of scientific conservation techniques.

Recommendation No. 2

The Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation,

Recalling that Recommendation No. 2 of the Committee's seventh session:

- (i) underlined the fact that the draft Convention of UNIDROIT (the International Institute for the Unification of Private Law) should be a useful addition to action under the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, 1970; and
 - (ii) stressed the need to ensure a link between the UNIDROIT draft and the UNESCO Convention;
1. Takes note of the report of the Secretariat (CLT-93/CONF.203/2 and 203/2 Add.) which informs the Committee of the elaboration of a draft UNIDROIT Convention on the international return of stolen or illegally exported cultural objects;
 2. Invites the Director-General to bring the UNIDROIT draft to the attention of the members of UNESCO with the addition of a full analysis which would underline the complementarity between both texts and would indicate the differences which exist between the UNESCO Convention and the UNIDROIT draft;
 3. Further invites the Director-General to study with UNIDROIT the distribution of the text of the draft in all the working languages of the Organization;
 4. Renews its appeal to Member States to give full attention to every article of the UNIDROIT draft Convention and to make comments on these matters in order for them to be brought to the attention of the Member States prior to the meeting of the diplomatic conference which is anticipated for the discussion and possible adoption of the UNIDROIT draft.

Recommendation No. 3

The Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation,

Conscious of the need to promote a policy of active co-operation which will reinforce the relations between those countries importing and those exporting cultural objects with the common aim of preserving universal cultural values,

Equally convinced that the preservation of the cultural identities of peoples is only possible by ensuring a close relationship between cultural objects and the environment which has produced them,

Noting that the 1970 Paris Convention establishes the legal structure to facilitate the restitution of stolen or illegally exported cultural objects,

Also noting that the draft UNIDROIT Convention would complement the above-mentioned Convention by facilitating its practical implementation,

Aware of the fact that often considerations of a financial character, especially for countries whose resources are limited, are obstacles which can (and sometimes do) prevent the restitution of such objects, in particular for the establishment of receiving institutions, and in respect of legal costs and transport,

Endorsing the Arusha Appeal of the ICOM/UNESCO Regional Workshop which desires the creation of an international fund, 'to finance the acquisition of stolen property and its restitution to museums and communities when the national or international legislations do not provide for this',

1. Invites the Director-General to examine the possibility of establishing an international fund at UNESCO which would be financed by voluntary contributions, public and private, intended to facilitate the restitution of stolen or illicitly exported cultural objects, in cases where the countries concerned are unable to meet the related financial costs; and
2. Further invites the Director-General to report on this matter to the General Conference at its next session for the possible launching of an appeal to the international community to this effect.

Recommendation No. 4

The Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation,

Endorsing the recommendations adopted at the International Workshop on the Protection of Artistic and Cultural Patrimony held in Courmayeur, Val d'Aoste, Italy, from 25 to 27 June 1992,

Taking into account Recommendation No. 1 (vii) which suggests that governments should consider establishing regulations whereby any imported cultural object should be accompanied by an export permit issued by the relevant authorities of the country of origin,

Taking also into account Recommendation No. 1 (x) which envisages that the Director-General, in consultation with governments and in co-operation with relevant organizations, should explore the possibility of creating an internationally recognized licensing system for art dealers, which would serve to weed out the criminal elements of an otherwise respectable professional group,

1. Invites the Director-General of UNESCO to prepare, if necessary in collaboration with international and regional intergovernmental and non-governmental organizations, a document which would analyse all aspects of establishing an export permit issued by the competent authorities of the country of origin as well as the creation of an internationally recognized licensing system for art dealers; and

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2. Further invites the Director-General to distribute this document to Member States before the meeting of the scheduled diplomatic conference for the discussion and possible adoption of the UNIDROIT draft Convention on the International Return of Stolen or Illegally Exported Cultural Objects.

Recommendation No. 5

The Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation,

Referring to the 'Feasibility of an International Code of Ethics for Dealers in Cultural Property for the Purpose of More Effective Control of Illicit Traffic in Cultural Property',

Convinced that co-operation of auctioneers, dealers and others involved in the buying and selling of cultural objects is essential for the control of illicit traffic in cultural property,

1. Invites States to encourage the adoption of a code of ethics by dealers in cultural objects or to ensure that they have legislation in place to regulate the activities of dealers together with those of conservators and restorers;
2. Invites States, where within a State dealers have adopted a code of ethics which includes provisions designed to prevent their participation in the illicit trade, to establish which dealers are not covered by the provisions of this code, and to adopt legislation regulating the behaviour of these dealers;
3. Invites States, where within a State dealers have adopted a code of ethics, to give consideration to its enforceability, the adequacy of its provisions, its dissemination to all interested parties and generally (e.g. through UNESCO) and access to some enforcement procedures on the part of parties aggrieved;
4. Invites States to consider the adoption, in concert with other States, of standard format export certificates;
5. Invites the Director-General to undertake specialized studies by archaeologists, conservators, architects, museum experts, dealers, cultural administrators and lawyers in order to clarify issues which are currently disputed or unclear and that such studies be examined by a committee of experts which would draft policy guidelines for the future conduct of the trade; and
6. Further invites the Director-General to include an item on an international code of ethics for dealers in the agenda of the ninth session of the Committee.

ANNEX II

Activities of the Secretariat in application of the recommendations adopted by the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation at its eighth session

(Paris, 24-27 May 1994)

1. Since the eighth session of the Committee held at Headquarters from 24 to 27 May 1994 the Secretariat has carried out several activities requested by the Committee.
2. In accordance with Recommendation 1.4 that the possibility of a network of data bases on cultural objects be explored, a consultant is currently working on a study of this subject.
3. In accordance with Recommendation 1.5(i), the Director-General issued a further appeal to all States to become Parties to the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970. The Appeal was dated 31 December 1994 and was widely distributed, as well as circulated as an 'Information note' to the 146th session of the Executive Board.
4. In accordance with Recommendation 1.5(ii) seeking continuing development of regional workshops on illicit traffic, preparations were made for a UNESCO/ICOM workshop on illicit traffic in cultural objects for Latin American countries which was to be held in Cuenca, Ecuador, from 6 to 9 February 1995. It had to be postponed because of the situation in the country at the time but is now likely to be held before the end of this year. The Draft Programme and Budget for 1996-1997 has included provision for further regional workshops.
5. In accordance with Recommendation 2, a translation of the draft prepared by UNIDROIT, which previously existed only in English and French, these being the two working languages of UNIDROIT, was translated by the UNESCO Secretariat into the other four working languages of UNESCO. These texts have been provided to UNIDROIT for wide distribution and were included in document 146 EX/48 distributed to all Member States.
6. In accordance with Recommendation 2,2 the Secretariat prepared an analysis of the UNIDROIT draft Convention on the International Return of Stolen or Illegally Exported Cultural Objects and the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property showing their similarities and differences. This study was distributed to all Member States as document 146 EX/48 and a copy has been transmitted to UNIDROIT.
7. In accordance with Recommendation 4.1 the Secretariat prepared a study of the advantages and disadvantages of export permits which was distributed to Member States as Appendix 1 to document 146 EX/48 and has also been transmitted to UNIDROIT.
8. Recommendation 5(5) invited the Director-General to undertake specialized studies by archaeologists, conservators, architects, museum experts, dealers, cultural administrators and lawyers in order to clarify issues which are currently disputed or unclear with a view to having such studies examined by a committee of experts which would draft policy guidelines for the future conduct of the trade. As a first step a contract has been given to a consultant to clarify the following issues:

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- (i) whether it is possible and/or desirable for antiquities to be made more readily available for collectors. This will include consideration as to whether there is a problem in breaking up any collection, only some collections, or none; whether there are in fact great collections in reserves which could be made available and whether dealers would be interested in handling average material;
- (ii) how recently discovered antiquities can be distinguished from those which have been in circulation for many years;
- (iii) the meaning of 'stolen' and whether this includes illegal excavation where antiquities are State property as well as the question as to how 'theft' relates to 'illegal export';
- (iv) to what extent dealers can police the trade;
- (v) in what areas co-operation between archaeologists and dealers could be envisaged.

9. In accordance with Recommendation 5.6, consultations are continuing with dealers on the proposed international code of ethics for further consideration at the next meeting of the Committee.