

UNITED NATIONS EDUCATIONAL,
SCIENTIFIC AND CULTURAL ORGANIZATION

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

Eleventh session

Phnom Penh, Cambodia, 6-9 March 2001

SECRETARIAT REPORT

After the tenth session of the Committee, the Secretariat continued to promote activities to curb illicit trafficking in cultural property and to encourage its restitution, and to implement the various recommendations adopted by the Committee.

I. PROMOTION OF BILATERAL NEGOTIATIONS

Two matters are still pending before the Committee:

The Parthenon marbles

1. Pursuant to Recommendation No. 1 adopted at the tenth session of the Committee, the Director-General took fresh initiatives to encourage bilateral negotiations between Greece and the United Kingdom. Two meetings were held on the restitution of the marbles. The first, a seminar entitled "The Parthenon marbles, their history and destiny", sponsored by the Society for the Protection of the Greek Heritage and the Corcoran Gallery of Art, was held in Washington DC in June 1999. The Chairperson of the tenth session of the Committee, Mr David Walden, attended the seminar and presented a summary of UNESCO's action on the Parthenon marbles through the Committee. Another meeting took place in Athens, from 22 to 25 May 2000, on the historical, cultural and legal aspects of the restitution of the Parthenon marbles. It was organized by the Joannis Capodistrias Centre of European Studies and Humanities and the Cultural Horizons Organization, in conjunction with the Philosophy Department of the University of Athens. Most participants spoke in favour of the return of the marbles. In December 1999, a two-day conference was held at the British Museum on the subject of the conservation and cleaning of the marbles. Mr Ian Jenkins, Curator of the Department of Greek and Roman Antiquities, acknowledged that 40% of the marbles had been affected by the drastic cleaning carried out by his predecessors in the 1930s and that Lord Elgin had damaged the Parthenon when removing the sculptures. But he added that the cleaning was a thing of the past and in no way altered the museum's current responsibility for preserving the marbles.

2. Last spring, Greece officially initiated legal proceedings for the restitution of the marbles before the European Court in Luxembourg. On Monday 5 June, the Greek Minister for Foreign Affairs spoke in favour of the restitution of the Parthenon marbles before a

parliamentary committee of the House of Commons. Following Greece's request, the Director-General asked the United Kingdom to fill in the sections on conservation which had been left blank in the standard form concerning Requests for Return or Restitution submitted in 1984. The Secretariat has yet to receive a reply.

The Bogazkoy sphinx

3. The other case pending before the Committee concerns the Bogazkoy sphinx (Turkey/Germany), currently in Berlin. No bilateral negotiations are under way as yet between the two States concerned. Nevertheless, at a brief meeting, the Secretariat encouraged the Ambassador and Permanent Delegate of Germany to UNESCO to resume negotiations and to fill in the standard form concerning Requests for Return or Restitution submitted by Turkey in 1987.

Restitutions or negotiations under way outside the Committee

4. Over a period of fifteen years, Denmark has returned much of the Greenland collection at the Danish National Museum to the National Museum of Greenland in Nuuk. On 27 March 1996, the Court of First Instance of Genoa ordered the restitution to Ecuador of 87 archaeological items dating from the pre-Columbian era. On 23 June 1998, the Court of First Instance of Rho (Milan) ordered the restitution of 479 archaeological items to their various countries of origin: Peru, Mexico, Costa Rica, Colombia, Ecuador and Guatemala.

5. The National Museum of the Cook Islands launched an appeal in June 1999 to museums and private collectors throughout the world for the voluntary return of ethnographic material from the Cook Islands. The museum, opened in 1992, announced that most of the Cook Islands' cultural property had been destroyed or exported in the 19th century. The objects should be returned so that "they serve their rightful purpose in their country of origin".

6. On Friday, 23 July 1999, two members of the Secretariat attended a ceremony for the restitution of cultural property illicitly exported from Madagascar. It was held at the Paris offices of OCBC (Office Central de Lutte contre le Trafic des Biens Culturels, France). The ceremony was also attended by the Ambassador of Madagascar and the members of the country's delegation, Mr Jacques Minetti, Chief of Police, Mr Jacques Hillaert, Head Commissioner of OCBC, and representatives of the Malagasy press. The cultural property, an integral part of the heritage of Madagascar, consisted of 315 fossilized eggs of *Aepyornis maximus*, and some 500 fossils, either in their natural state or crafted. *Aepyornis maximus*, also known as the elephant-bird, had a dinosaur's head on an ostrich's body. It lived in the Quaternary era and is now extinct. The eggs were confiscated by the French customs at Le Havre on 1 July 1999. France officially returned the eggs to Madagascar pursuant to the 1970 Convention ratified by France in January 1997. They left France in May 2000 and are due to be displayed at the "Queen's Palace" in Antananarivo.

7. An article in the weekly *l'Evènement* of 19 December 1997, entitled "In Egypt the looting goes on" (see press file of the tenth session of the Committee, page 158), referred to looting at the necropolis of Saqqarah by traffickers, including the notorious Tokeley-Parry. The sculpted head of an Egyptian queen (probably Nefertari), dating back to the 13th century BC, was returned to Egypt in March 2000, with the assistance of the British Museum. The sculpture had been illicitly exported to London in the early 1990s and purchased by a British art dealer from Tokeley-Parry, who is currently in prison for possession of stolen Egyptian treasure. The stolen objects were disguised as fakes and, once in London, were restored and then sold. When the Egyptian authorities took their request for the head's return to court, they

were told that it was a fake. The Egyptian Government then asked the British Museum to have the head valued; it turned out to be genuine and was duly returned.

8. On 10 April 2000, Canada returned a series of cultural objects to Peru, following a Peruvian request based on the law on the export and import of cultural property and on the 1970 UNESCO Convention. The 59 painted and decorated ceramic objects had been exported illegally and they were part of two shipments seized in Vancouver in 1985 and returned to Peru in 1997. These 59 objects were identified originally as modern replicas and released; but they were later recalled when it was discovered that they could be originals disguised as replicas. On examination, 39 items were identified as being genuine pre-Columbian antiquities dating from 1800 BC to 1400 AD, and only five objects were modern replicas. Canada and Peru are both parties to the 1970 UNESCO Convention. Mr Amador Velasquez, Peruvian Consul General, took delivery of the objects from the Canadian Government at a ceremony held at the Museum of Anthropology, University of British Columbia, Vancouver.

9. China lodged a request with the UNESCO office in Beijing on 26 April 2000, calling for a halt to the sale of objects stolen in 1860 during military action by eight countries and for the objects to be restored to China. China made the same request to Christie's and Sotheby's Hong Kong auction houses but in vain. They refused to withdraw from their sales, held from 30 April to 2 May 2000, the four objects looted by the French and British armies in 1860, and China had to buy them back for a total of 45 million francs. This property fell outside the prescription period of the 1970 Convention and it should be noted for the future that, when informing UNESCO of Hong Kong's status with regard to UNESCO conventions, China failed to indicate that the 1970 Convention would apply to the territory. The same goes for the 1995 UNIDROIT Convention. UNESCO cannot therefore help China to recover any cultural property, be it stolen, illicitly exported or discovered in clandestine excavations, that goes on sale or is found in Hong Kong. Since Hong Kong is fully part of China, the Committee has no competence for cultural property stolen in the past or future.

II. INTERNATIONAL COOPERATION

New States Parties to the 1970 Convention and the UNIDROIT Convention

10. Since the last session of the Committee (Paris, January 1999), Finland and Azerbaijan have become parties to the 1970 UNESCO Convention, bringing the number of States Parties to 91. The UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (adopted in Rome on 24 June 1995) was a much needed complement to the 1970 Convention in terms of international private law. Since the last session of the Committee, Bolivia, Finland and Italy have ratified the UNIDROIT Convention and Brazil and El Salvador have acceded to it, bringing the number of States Parties to 12.

Cultural property displaced during the Second World War

11. In its Recommendation No. 7, the Committee invited "the Director-General to convene a working group of experts in this field, with the task of preparing a more comprehensive report for the next session of the Committee". Accordingly, a meeting of experts on the settlement of disputes concerning cultural property displaced during the Second World War was held at UNESCO Headquarters, from 29 to 31 May 2000. Eight legal experts of different nationalities took part in the meeting in a personal capacity. Three observers from the Council of Europe, the International Council of Museums (ICOM) and the International Council of Archives (ICA) also attended the meeting. Eight proposed principles for inter-state settlement of disputes concerning restitution were examined. These principles had previously been

submitted to the Committee at its tenth session in January 1999. Considerable progress was made in this area but a second meeting on the subject will be needed to complete the work.

Result of international poster competition

An international poster competition, "Protecting the cultural heritage", was launched by UNESCO in 1998 with the support of the Canadian Government, Savannah College of Art and Design (Georgia, United States), the International Council on Monuments and Sites (ICOMOS-USA) and Delta Airlines. It is part of the UNESCO Forum – University and Heritage, an international network of specialists and students in archaeology, anthropology, urban planning, fine arts, art history and conservation. The competition was intended to raise the awareness of young people throughout the world of the importance of their local cultural heritage and the need to combat the illicit import, export and transfer of ownership of cultural property. The posters thus designed are intended to illustrate the 1970 UNESCO Convention and promote the fight against illicit trafficking in cultural property. The competition attracted 189 candidates from 25 countries. At the ceremony held at UNESCO Headquarters, Paris, on 8 November 1999, the Assistant Director-General for Culture awarded the prizes to four of the five prizewinners. They each received a cheque for US \$100 and a partial bursary for Savannah College of Art and Design (Georgia, United States). The first prize was awarded to Juan Badel (Colombia). The four runners-up were Christian Molina (Germany), Sergio Bumtay III (Philippines), María Alejandra Rodríguez (Guatemala) and José Luis Silva (Mexico). National ceremonies were held in Argentina, China, Iran, Morocco and the United States and are planned in Cambodia, Cuba, Jamaica, Lithuania, Nigeria, Philippines, Vanuatu and Venezuela. In addition to the main prizes, awards were given to the best candidate in each participating country.

Secretariat assistance with legislation and combating illicit traffic (missions)

13. A member of the Secretariat went on a mission to London, on 23 June 1999, to discuss the future implementation of the Object-ID standard. Two projects are under way: one to promote Object-ID in Asia and one for the Arab countries. During another mission to London on 16 June 2000, discussions took place with the British authorities about the United Kingdom's possible accession to the 1970 Convention. In February 2000 the British Minister made a statement to the parliamentary committee of the House of Commons to the effect that the United Kingdom would not sign the 1970 Convention because it would be difficult to implement in the light of domestic legislation. In March the British Government softened its stance and declared that it might consider depositing an instrument of accession after all. Another visit was paid to the United Kingdom on 16 March 2000 at the invitation of the organizer of an interministerial committee to consider the 1970 UNESCO Convention and the 1995 UNIDROIT Convention. UNESCO's submission of a memorandum to the parliamentary committee on illicit trafficking and the restitution of cultural property were commented upon by the minister concerned before the same committee, which recommended the United Kingdom's accession to the UNIDROIT Convention but not to the UNESCO Convention.

14. A member of the Secretariat undertook a mission to Oxford, United Kingdom, on 1 and 2 July to take part in a meeting of the Committee on Cultural Heritage Law of the International Law Association.

15. At the invitation of the Czech Ministry of Culture, a member of the Secretariat went to Prague from 11 to 15 July 1999 to examine the preliminary draft legislation on the protection of the cultural heritage (Cultural monuments and monuments conservation).

16. A member of the Secretariat undertook a mission to Berne on 23 and 24 September 1999 to encourage the Swiss authorities to accede to the 1970 UNESCO Convention.

17. During a mission to the United States in January 2000, discussions were held at the World Bank on the Object-ID projects for Viet Nam and the Arab countries and a visit was paid to the UNESCO Office in Washington, to attend the poster competition ceremony at which prizes were awarded to the winners in the United States and the countries of Latin America and the Caribbean.

18. A member of the Secretariat visited Japan from 11 to 18 March 2000 at the invitation of the Japanese authorities, notably the Minister for Foreign Affairs and the Director-General of Cultural Affairs. The issue of Japan's accession to the 1970 Convention was on the agenda, as was the importance of the draft Convention on the Underwater Cultural Heritage.

Bilateral agreements United States/ ...(import restrictions): new agreement with Cambodia

19. At the request of the States Parties to the 1970 Convention, objects from Cambodia, Canada, Cyprus, El Salvador, Guatemala, Mali and Peru are subject to import restrictions; they may only enter the United States if they are accompanied by an export licence issued by the country of origin or if they left the said country before these restrictions came into force. Negotiations are currently under way to apply the same import restrictions to objects originating in Italy.

Computerized databases on stolen cultural property

20. At the INTERPOL meeting on works of art stolen in the Americas, held in December 1999, a day was dedicated to computerized databases on stolen cultural property. The states and institutions with such a tool at their disposal presented it to the public and demonstrated its effectiveness in the fight against illicit trafficking in cultural property. Given the disparity of such databases, UNESCO suggested that encouragement should be given to harmonizing and interconnecting them, in accordance with the Committee's Recommendation No. 4.

21. UNESCO does all it can to help countries involved in armed conflicts. Following the discussions held during the tenth session Armenia and Azerbaijan agreed that a UNESCO mission should be sent to the two countries. Other discussions were later held with the respective representatives of the permanent delegations but proved inconclusive. UNESCO hopes that in the future the necessary conditions will be met to enable the visit to go ahead.

Protection and return of Afghan cultural property

22. The Swiss Federal Department of Foreign Affairs announced the creation of a Foundation to accommodate Afghan cultural property at a museum in Bubendorf, in the Canton of Basel-Land. This initiative is receiving the generous support of the Swiss Federal Council which decided on 23 December 1999 to contribute to this operation to safeguard the cultural heritage by making a one-off payment of \$100,000. This operation is being carried out in partnership with UNESCO. This support is part of the Federal Council's strategy aimed at ratifying international conventions relating to the protection of cultural property. An independent Foundation will acquire any property threatened with destruction or looting, which will be temporarily housed by the museum, with the aim of preserving it, presenting it to the public and eventually returning it to the country of origin. Items will include archaeological, ethnological and historical property, documents, photographs, films, etc., from various regions of Afghanistan.

23. Some ancient Greek coins stolen from the Kabul Museum and illicitly exported have turned up at an art dealer's in the United States. They have been valued by Professor Frank Holt, in Houston, a numismatist recognized by the Cabinet des Médailles in Paris. He hopes to persuade the art dealer to hand the coins over to UNESCO so that they can be returned to their country of origin.

International Code of Ethics for dealers in cultural property

24. In accordance with the Committee's Recommendation No 3, Object-ID and the International Code of Ethics for dealers in cultural property were adopted as international UNESCO standards on 16 November 1999 by the 30th session of the General Conference. To facilitate the promotion and dissemination of the Code, it is due to be launched at the forthcoming celebration of the 30th anniversary of the 1970 UNESCO Convention. Two projects concerning Object-ID are also planned. In Viet Nam, a long-term pilot project designed by the Tropen Museum, Amsterdam, for the Danang Museum, Hanoi, will be implemented. Its purpose is to equip the national museums with software based on the Object-ID identification index, which would make it possible to draw up rapid inventories of the objects and hence recover them in case of theft. Training museum staff in the use of this software is also planned. In Amman, Jordan, a workshop is due to be held to promote and disseminate Object-ID in the Arab countries.

Committee Fund

25. A Fund 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 created by the UNESCO General Conference at its 30th session. Pursuant to Recommendation No. 6 of the Committee, this Fund is designed to support the Member States in their efforts to fight the illicit traffic of their cultural property. It will be funded by voluntary contributions. The Fund is intended for specific projects in priority areas such as training and the strengthening of museum systems.

Regional or national workshops, conferences

26. At the invitation of the Italian Ministry of Culture, a member of the Secretariat paid an official visit to Rome, on 3 and 4 May 1999, to represent UNESCO at the fifth International Congress on Illicit Trafficking in Works of Art.

27. A member of the Secretariat went to Lyon on 7 October 1999 to take part in the INTERPOL meeting on the illicit traffic of cultural property and to give a presentation of the draft Convention on the Underwater Cultural Heritage.

28. A member of the Secretariat took part in the national symposium "Heritage and culture in Mauritania", held in Nouakchott from 27 November to 1 December 1999, to elaborate and develop a global strategy for cultural policy including standard-setting. Five hundred participants out of a total population of two million took part.

29. A conference organized by INTERPOL on the illicit traffic of works of art in the Americas was held in Mexico City from 1 to 4 December 1999. A member of the Secretariat went to the meeting and gave a presentation on the fight against illicit trafficking in cultural property in the framework of the 1970 Convention and on the need to harmonize computerized databases on stolen cultural property to combat such trafficking.

30. At the invitation of the National Centre of Police Studies and Training (French Ministry of the Interior), a member of the Secretariat gave a presentation on the international legal protection of cultural property at the study day entitled "Organized crime and the traffic in works of art", held at Gif-sur-Yvette, France, on 2 February 2000.

31. An Africa-Europe summit under the aegis of the Organization of African Unity and the European Union was held in Cairo on 3 and 4 April 2000. Paragraph 110 of the Cairo Declaration concerns cultural matters:

"We pledge to accord importance to cultural cooperation between Africa and Europe as an integral aspect of development.

"With regard to cultural goods stolen or exported illicitly, we have taken note of the concerns of African States and request senior officials of the bi-regional group to examine the legal and practical consequences of further action in this area and prepare a report for assessment at ministerial level in the framework of the follow-up mechanism, within reasonable time".

32. The fourth World Archaeological Congress was held at the University of Cape Town, South Africa, and on 14 January 1999 adopted the following resolution:

"Recognizing that international cooperation is essential for protecting the world's cultural heritage; the World Archaeological Congress urges all nations that have not already done so to become party to the relevant international conventions, including: the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954), the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970), and the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (Rome, 24 June 1995)".

33. At its 54th session, the General Assembly of the United Nations adopted resolution 54/190 of 17 December 1999 entitled "Return or restitution of cultural property to the countries of origin". This resolution commended UNESCO and the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation on the work they had accomplished, in particular through the promotion of bilateral negotiations in that field, the preparation of inventories, the reduction of illicit traffic and public information. It reaffirmed the importance of the provisions of the Hague Convention, including the Second Protocol, and of the 1970 Convention and invited States to become parties thereto. It welcomed the adoption of the Second Protocol at The Hague on 26 March 1999 and invited the States to become parties thereto.

34. At the 159th session of the Executive Board, the Assistant Director-General for Culture a.i. thanked the honourable delegates from Germany, Canada, Spain, Greece and Peru for drawing the Secretariat's attention to the return and restitution of cultural property to their countries of origin. He emphasized the importance of UNESCO's standard-setting activities, and mentioned the 1970 UNESCO Convention, the 1995 UNIDROIT Convention, the Second Protocol to the Hague Convention, and coordination with the 1972 Convention.

35. The third meeting of government experts on the draft Convention on the Underwater Cultural Heritage was held at UNESCO Headquarters from 3 to 7 July 2000. Over 80 States, represented by some 200 experts, took part along with several legal and scientific associations. Progress was made on several articles of the draft Convention. Unanimous agreement

emerged about the need to protect the underwater cultural heritage from the risks of destruction or looting, but further negotiations will have to take place in the future to finalize the text. The fourth meeting of government experts is planned for the first half of 2001.

III. PUBLIC INFORMATION

36. On 15 November 2000, UNESCO will celebrate the 30th anniversary of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (adopted in Paris, on 14 November 1970). A day of study and information about the illicit traffic of cultural property is to be held at UNESCO Headquarters. An article-by-article commentary of the 1970 Convention will be distributed and documentaries about the illicit traffic of cultural property will be presented. A closing ceremony will be attended by the Director-General and will be followed by a reception.

37. The Secretariat continued to provide information about its activities for the Committee to the international media through interviews given to US News, Archaeologia, the BBC, Thames Television, the Korean television service and other media.

38. UNESCOPRESS continued to publish newsletters about illicit trafficking in cultural property and, in particular, articles about the adoption of the Object-ID standard and an International Code of Ethics for dealers in cultural property by the tenth session of the Committee; on the appeal launched by the Director-General to the parties in the Kosovo conflict to respect the cultural heritage of the Balkans; and on the Diplomatic Conference at The Hague (15-26 March 1999), which made considerable progress on the protection of cultural property in the event of armed conflict.

39. Information and documents relating to the activities of the International Standards Unit, Cultural Heritage Division, are accessible on the Website www.unesco.org/culture/legalprotection/index.html

40. The handbook on the fight against illicit traffic and implementation of the 1970 Convention, which already existed in English and Chinese, is now available in Spanish. It will come out in French in October 2000 and an Arabic version is also planned.

41. An information booklet on illicit trafficking in cultural property is also available in Arabic, Chinese, English, French, Russian and Spanish. Booklets on the 1954 Hague Convention and the draft Convention on the Underwater Cultural Heritage are also available.