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REPORT ON THE 2006-2007 ACTIVITIES OF THE INTERGOVERNMENTAL COMMITTEE FOR PROMOTING THE RETURN OF CULTURAL PROPERTY TO ITS COUNTRIES OF ORIGIN OR ITS RESTITUTION IN CASE OF ILLICIT APPROPRIATION

OUTLINE

Source: Article 4.8 of the Statutes of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation.

Background: Since the 33rd session of the General Conference, the Committee has met once, for its fourteenth session, in Paris, on 5 and 6 June 2007.

Purpose: This document contains the final report of the Committee on its fourteenth session and the recommendations adopted by it on that occasion. The report describes the activities undertaken by UNESCO Member States, the Secretariat and other international governmental and non-governmental organizations aimed at curbing illicit trafficking in cultural property, in particular by administrative and legal means, and at facilitating return of such property. It also contains the Committee's views regarding the strengthening of its mandate.

I. Introduction

1. The fourteenth 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 (hereafter "the Committee") was held at UNESCO Headquarters in Paris on 5 and 6 June 2007. The 22 members of the Committee were present. Forty-nine Member States, not members of the Committee, were represented. One State with a Permanent Observer Mission to UNESCO, five intergovernmental organizations and two non-governmental organizations sent observers.

II. Opening of the session – election of the Bureau – adoption of the agenda

2. The Chairperson of the Committee, Ms Kathryn Zedde (Canada), opened the session, and then the representative of the Director-General delivered a message welcoming members and observers. The Chairperson was re-elected. The representatives of Egypt, Guatemala, the Republic of Korea and the United Republic of Tanzania were elected Vice-Chairpersons and the representative of Lithuania was re-elected Rapporteur. The provisional agenda proposed by the Secretariat was adopted.

III. Report of the Secretariat

3. The Secretariat introduced its written report (CLT-207/CONF.211/COM.14/2) on developments since the previous session of the Committee and in particular the implementation of the recommendations of the thirteenth session and activities carried out by the Organization with its partners, ICOM, Interpol and the World Customs Organization (WCO), to curb the illicit trafficking in cultural property. The presentation of tools developed or promoted by the Secretariat to that end, the comments of the Committee and updated information on national activities provided by the members and observers, are set out in summary form below.

4. Five amendments were made to the report. Greece informed the Committee that it had joined the countries that had ratified the UNIDROIT Convention, thereby bringing the number of States Parties to 29. Argentina raised the question of the nature of the document entitled "Basic Actions concerning Cultural Objects being offered for Sale over the Internet"; the Secretariat explained that the document was not for adoption but would merely be presented for consideration to the States Members of UNESCO and Interpol and to the members of ICOM. Switzerland asked for it to be specified in paragraph 2 of Section VII concerning Afghanistan, that "the Swiss Government and the Swiss National Commission for UNESCO had provided generous moral and financial support to the entire project" of the Afghanistan-Museums in Exile. Germany asked for the deletion of the description "an important landmark in the recent improving process of international cultural exchange ..." regarding the return of a fragment of the Parthenon Marbles by the University of Heidelberg to Greece. Greece stated that the number of objects returned by the Getty Museum was 25 and not 26.

IV. Amendment of the Committee's Rules of Procedure

5. Rules 1.1 and 2.4 of the Committee's Rules of Procedure were amended so as to bring to 22 the number of members of the Committee and to 11 the number required for the convening of an extraordinary session pursuant to 28 C/Resolution 22.

V. International cooperation to prevent and restrict the illicit trafficking in cultural property

6. Among the tools presented in this connection, the development of the UNESCO Cultural Heritage Laws Database was the subject of unanimous appreciation by the members of the Committee and of a Recommendation (No.4) with a view to pursuing the official translation of texts. The representative of the United States of America reiterated his Government's wish to financially support the development of the Database and the Secretariat reminded all the Member States

present of the importance of transmitting up-to-date versions of their official texts. Funds remained available for the translation of official texts into English.

7. The item concerning the list of experts in Iraqi cultural property gave the International Committee of Museums (ICOM) the opportunity to call for the establishment of a similar list for Afghanistan, and the Dominican Republic for a list for the Caribbean region. Clarification was provided by Interpol, in response to a question put by the Netherlands, on the use of a list of experts drawn up by the UNESCO Secretariat as contribution to the work of the Interpol Expert Group on Stolen Cultural Property in February 2004, and which was intended to enable the identification of objects by competent sources.

8. Many members and observers, including Iraq, Egypt and the Islamic Republic of Iran, provided detailed information on national situations regarding the curbing of illicit trafficking and, in particular, difficulties encountered. The representative of Iraq recalled the urgent need for mobilization to prevent the illegal sale of his country's cultural property, which even affected property on the ICOM Red List.

9. Exchanges of information on national practices and experiences, and especially positive experiences of return and restitution, were acknowledged as being a fundamental part of the Committee's work which warranted further development. This emerged from two statements, made by the representative of China to the Committee and a senior Italian official, a specialist in cultural property. The Secretariat should pay more attention to the dissemination of such information, in particular by means of the UNESCO website.

VI. Review of cases pending before the Committee and promotion of bilateral negotiations

10. The parties concerned by the three cases pending before the Committee, the Parthenon Marbles, the Boğazköy Sphinx and the Makonde Mask, submitted recent information on ongoing bilateral negotiations. Each of the three cases was the subject of a Recommendation presented jointly by the parties concerned, namely, Greece and the United Kingdom of Great Britain and Northern Ireland, Turkey and Germany, the United Republic of Tanzania and Switzerland.

11. In connection with consideration of these cases, Greece informed the Committee of the forthcoming opening, in late 2007, of the Acropolis Museum. The representative of Switzerland emphasized that the case of the Makonde Mask had not formally been brought before the Committee since the Swiss State did not hold the object requested; he nevertheless expressed Switzerland's willingness to facilitate negotiations with a view to restitution.

VII. Examination of the Draft Rules of Procedure on Mediation and Conciliation in accordance with Article 4, paragraph 1, of the Statutes

12. The General Conference adopted, at its 33rd session, 33 C/Resolution 44 which added mediation and conciliation to the mandate of the Committee. Draft rules of procedure (CLT-2007/CONF.211/COM.14/3), prepared by the Secretariat on the basis of Recommendation No. 3 of the Committee at its thirteenth session, were presented to the Committee. Two of the 11 rules were examined and amended. A third paragraph on the mediation procedure will be added to rule 2 so as to provide a list of possible mediators in accordance with paragraphs 1 and 2 as amended.

13. The Committee decided to examine the text in stages so as to facilitate the work at the next session of the Committee and the adoption of a satisfactory text. An amended version of the draft rules of procedure would be distributed to the members of the Committee and all Member States for comment. The Secretariat would produce a summary of the comments received and prepare a consolidated draft of the rules of procedure. The consolidated draft would be distributed to the members of the Committee and Member States and presented to a working group on the draft

rules of procedure, which should make recommendations with a view to examination at the fifteenth session of the Committee.

VIII. Strengthening of the mandate of the Committee and next sessions of the Committee

14. In its work, the Committee underscored the importance of broadening the reflection on matters relating to combating illicit trafficking, and the promotion of activities with a view to the return and restitution of cultural property. In that connection, Greece reported that the sum of 50,000 euros had been donated to the Committee for the holding, in 2008, of an international seminar on the question of return and restitution.

15. The Republic of Korea officially invited the Committee to hold an extraordinary session, in 2008, in Seoul, on the occasion of the thirtieth anniversary of the Committee's establishment. The invitation was welcomed unanimously.

IX. Next ordinary session of the Committee

16. The provisional date of June 2009 was chosen for the fifteenth ordinary session of the Committee.

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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,

Expressing its continuing concern for a resolution to the issue of the Parthenon marbles,

Acknowledging past UNESCO recommendations on this matter,

1. Takes note of the meeting between Hellenic and British Ministries of Culture, together with observers from UNESCO and the British Museum, on 4 May 2007 and of the development of a solid and cordial basis for discussions;
2. Acknowledges the good progress made in the construction of the new Acropolis Museum, wherein it will be possible for the Parthenon marbles to be exhibited in direct visual contact with the monument;
3. Thanks the Director-General for facilitating discussions between the Parties which have led to the development of valuable relationships;
4. Invites the Director-General to assist in convening necessary meetings between Greece and the United Kingdom with the aim of reaching a mutually acceptable solution towards the effective resolution of the issue of the Parthenon Marbles.

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 the request of Turkey for the Sphinx of Boğazköy, which is currently on display in the Berlin Museum,

Noting the legal and cultural arguments that have been made by both States concerned over a number of years,

Recalling the previous Recommendation No. 2 adopted by the Committee on this question at its sixth, tenth, eleventh, twelfth and thirteenth sessions,

Aware of the continuing concern of Turkey for the long-awaited resolution of the issue of the Sphinx,

Noting also that the 7,400 cuneiforms tablets which were part of the original request of Turkey in 1987 to the German Democratic Republic were returned,

1. Expresses its hope that the pending request of Turkey with regard to the issue of the Sphinx will be solved through bilateral negotiations,
2. Takes note of the fact that the last bilateral negotiations on this issue took place on 19 November 2002 in Berlin, without reaching a solution;
3. Invites both Parties to continue comprehensive bilateral negotiations with a view to bringing this issue to a mutually acceptable solution;
4. Also invites the Director-General to continue using his good offices towards the resolution of this issue and to report to the Committee at its fifteenth session.

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,

Recalling the request for restitution of the Makonde Mask brought before the Committee by the United Republic of Tanzania,

Acknowledging the exchange of information between the representative of the United Republic of Tanzania and the representative of the Barbier-Mueller Museum in Switzerland,

1. Takes note of the negotiation process that has taken place between the United Republic of Tanzania and the Barbier-Mueller Museum for the return of the Makonde Mask;
2. Notes the offer made by Switzerland to act as facilitator in additional negotiations between the United Republic of Tanzania and the Barbier-Mueller Museum;
3. Encourages the United Republic of Tanzania and Switzerland to continue in their efforts to resolve this dispute in a positive manner.

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,

Recalling Recommendation No. 5 adopted by the Committee at its 13th session which, among other things, invited the Director-General to establish and maintain on the UNESCO website a legislation database that includes cultural heritage legislation from all Member States and requested Member States to cooperate fully in this endeavour,

Acknowledging the strengthening and the upgrading of the UNESCO Cultural Heritage Laws Database website,

Thanking the United States of America for its substantial and decisive extrabudgetary contributions to the UNESCO Cultural Heritage Laws Database,

1. Encourages Member States to continue to provide the Secretariat with electronic versions of their national cultural heritage legislation and their official translations,
2. Invites Member States to consider providing additional extrabudgetary funds for the purposes of official translations into the official languages of UNESCO.

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,

Recalling Recommendation No.9 adopted by the Committee at its thirteenth session which, among other things, invited the Director-General to examine the possibility of financing an international conference of experts and actors in the field of return and restitution of cultural property, to analyse the existing legal and moral grounds associated with this issue, identify appropriate reinforcement of the existing legal and practical tools for and growing trends in this field, and propose future action thereon,

Acknowledging the importance of organizing such a conference and the scholarly benefits which will derive thereof,

1. Thanks Greece for its substantial extrabudgetary contribution in this regard;
2. Invites the Director-General of UNESCO to organize, in cooperation with the Hellenic Ministry of Culture, such a conference in 2008 in Greece, by using the above-mentioned contribution.

Recommendation No. 6

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

Noting the debates about the challenges concerning the resolution of disputes concerning the return and restitution of cultural property,

Taking note of the examples provided by Member States on the successful return and restitution of cultural property,

Welcoming the offer of the Republic of Korea to hold an extraordinary session of the Committee in Seoul in 2008,

1. Accepts with gratitude this generous invitation;
2. Considers it as an opportunity to celebrate the thirtieth anniversary of the Committee;
3. Regards this event as a chance to elaborate a future strategy for its work;
4. Invites the Member States and Observers to bring to this extraordinary session proposals and ideas for new approaches towards the issue of the return and restitution of cultural property and of international cooperation in this domain.